UNITED STATES DISTRICT COURT

DISTRICT OF MINNESOTA

- -

In Re: Viagra Products
Liability Litigation

MDL No. 06-MD-1724

This Document Relates to:
MARTIN V. PFIZER
STANLEY V. PFIZER

- -

VIDEOTAPED DEPOSITION of JOHN M. WILLIAMS, SR., M.D., M.P.H., taken at the instance of Pfizer, under and pursuant to the Federal Rules of Civil Procedure, and the acts amendatory thereof and supplementary thereto, before me, KIM M. PETERSON, CM, Registered Professional Reporter and Notary Public in and for the State of Wisconsin, at 3000 Westhill Drive, Wausau, Wisconsin, on the 13th day of January, 2009, commencing at 9:15 o'clock in the forenoon.

APPEARANCES

AYLSTOCK WITKIN KREISS & OVERHOLTZ, PLLC, 803 North Palatox Street, Pensacola, Florida, 32501, by MR. DANIEL THORNBURGH, appeared on behalf of Mr. Martin and Mr. Stanley.

KAYE SCHOLER, LLP, 425 Park Avenue, New York, New York, 10022-3598, by MR. BERT L. SLONIM and MS. AVIGAEL FYMAN, appeared on behalf of Pfizer.

ALSO PRESENT: Mr. Neil D. Overholtz, via telephone.

INDEX

EXHIBITS

EXHIBITS (continued)

(The original exhibits were attached to the original transcript.)
(The original transcript was sent to Mr. Slonim.)

PROCEEDINGS

VIDEOGRAPHER: My name is Steve Peters, videographer on behalf of Veritext today.

This is the beginning of the video deposition of John M. Williams, Sr., M.D., M.P.H., on January 13, 2009. The time, 9:15 a.m.

This is in re: Viagra Products Liability Litigation in relation to Martin versus Pfizer; also, Stanley versus Pfizer, pending in the United States District Court for the District of Minnesota, case number MDL docket number 06-MD-1724.

Counsel will now please state their appearances.

MR. THORNBURGH: My name's Daniel Thornburgh, T-H-O-R-N-B-U-R-G-H. I represent the plaintiff -- plaintiffs.

MR. SLONIM: Bert Slonim on behalf of defendant Pfizer.

MS. FYMAN: Avigael Fyman on behalf of defendant Pfizer.

MR. SLONIM: Neil, would you state your --

MR. OVERHOLTZ: Sure. This is Neil Overholtz and I represent the plaintiffs.

VIDEOGRAPHER: The court reporter will now swear in the witness.

JOHN M. WILLIAMS, SR., M.D., M.P.H., called as a witness herein by Pfizer, after having been first duly sworn, was examined and testified as follows:

EXAMINATION

BY MR. SLONIM:

Q Good morning, Dr. Williams.

A Good morning.

Q My name's Bert Slonim. I represent defendant Pfizer. We had a chance to say hello before the deposition started this morning. How are you today?

A Doing fine. Thank you.

Q Dr. Williams, can you tell us when you were first contacted by plaintiffs' counsel in this matter?

A Yes. I'd refer to a letter dated November 17, 2008, in which I received a compact disk with medical records of Richard Martin and Richard Stanley. The following day I received a retainer for $1400.

Q Did you have any communications, a phone call or something, prior to --

A I had an e-mail prior to that inquiring as to

whether I might be interested in providing expert testimony on this case, and I had also worked with Mr. Thornburgh on a previous case and he had asked if I might be interested in doing some future work for them.

Q What was that earlier case in which you had worked with Mr. Thornburgh?

MR. THORNBURGH: I'm going to object.

BY MR. SLONIM:

Q Was that a -- Was that a -- Well, his objection's noted.

A It was -- I don't recall specifically the patient's name, but it was a case in which a woman, an elderly woman with macular degeneration, had lost a significant amount of vision and a insurance policy that would have paid her benefits for vision loss was unwilling to -- to cover that. So I reviewed the records and provided my opinion.

Q When was that case? When was your work in that case, I should say?

A That was in 2008. Specific dates, I don't have it at hand.

Q Did you prepare an expert report in that matter?

A I did.

Q And did you give expert testimony?

A Just a report.

Q There was no deposition?

A No deposition.

Q Had you worked with any of the plaintiffs' other counsel besides Mr. Thornburgh prior to your retention in the Martin and Stanley matters?

A Worked with Mr. Thornburgh's firm, but he was the lead attorney on that specific case. No other cases.

Q I know you've produced -- brought with you, I should say, some documents reflecting written communications back and forth with the plaintiffs' attorneys. Can you tell us, have you had any in-person meetings with the plaintiffs' counsel about the Martin or Stanley cases?

A In person meaning face to face. Today's the first day that I've met Mr. Thornburgh face to face.

Q Did you spend some time chatting about the case prior to the deposition this morning?

A We did talk for approximately 30 minutes this morning.

Q Did you review any documents?

A Yes. We looked briefly at all the documents here in the -- in the folder, as well as the books, book chapters that I brought along.

Q Did you have telephone conferences with the plaintiffs' attorneys during the course of your work in this matter?

A Yes, I did.

Q Walk us through chronologically, as best you can recall, the telephone conferences.

A Let me take a look at some of my notes here. It was approximately November -- the November 23rd through 26th timeframe. During that period of time we did discuss by phone the Stanley and Martin cases. And I also on -- during that timeframe had a chance to speak with Mr. Stanley, as well as Mr. Martin, by phone.

Q With whom did you speak from the plaintiffs' attorneys about the Martin and Stanley case during that three or four-day period from November 23rd to the 26th?

A Let's see here. I believe I was primarily working with Jason Richards, Esquire.

Q Yep. And how -- in total how long were those -- did those conversations last?

A Approximately, I believe it was about an hour, if we're just talking about the conversations with Mr. Richards. And then with the individual plaintiffs, I believe I spoke to Mr. Stanley

approximately 45 minutes, Mr. Martin an equal period of time.

Q What materials were provided to you by plaintiffs' counsel?

A I was provided a CD ROM that's titled Martin Medical Records and Stanley Medical Records, and I took those and then upon receipt of those printed those into hard copies which I've brought with me today.

Q Were you provided with any medical literature?

A No.

Q I notice that you have some medical literature in your -- in the folder that you brought with you. Can you tell us how you went about getting that?

A Yes. After being retained for this -- these particular cases, I did a literature review looking specifically at cases of nonarteritic ischemic optic neuropathy that were associated with Viagra use.

And in the course of that literature search, which was done through the National Library of Medicine, their Pub Med web site, in the course of that literature search identified several abstracts pertinent to these cases.

After identifying the abstracts, those

that seemed most pertinent I worked with our clinical library here at Aspirus in Wausau and my library obtained the full text articles for me.

Q And you've printed those out?

A Yes, I did.

Q Were there any -- Strike that. Do you recall -- Strike that. Did you save your search request?

MR. THORNBURGH: Objection.

BY MR. SLONIM:

Q You can answer.

A As far as the list of specific articles, I don't have that with me, but I believe I may have that in an e-mail that I sent to my librarian.

Q Okay. That would certainly be within the scope. We'll get to the subpoena, but that's a document that we would want.

A Okay.

Q So in other words, if I understand it correctly, you formulated a -- a search inquiry that you punched into Pub Med. Pub Med then spit back -- generated back a set of results that picked up those search terms, and then you identified certain of those results that you were interested in in reviewing the full copy of and you sent those to the clinical library, is that the idea?

MR. THORNBURGH: Objection.

THE WITNESS: Correct. Sent a list of the articles that I felt were pertinent to the librarian who found the articles and sent them to me. Some of the actual abstracts from the Pub Med search I do have with me here.

BY MR. SLONIM:

Q Okay. Did you review other expert reports?

A Other in -- you mean in published literature or --

Q Let me rephrase. Were you aware of the fact that other physicians have -- besides yourself have provided expert reports in connection with Viagra and NAION?

A I understand as of today when we discussed earlier that they have retained other experts and one was named to me, but I've not seen their reports.

Q Who was the expert that --

A Dr. Hayreh.

Q Ah-huh. But you have not had the opportunity to review any of the other expert reports?

A No, I haven't.

Q Have you read any deposition transcripts?

A Regarding this particular case?

Q Yes.

A No.

Q So in other words, you didn't read any transcripts of Mr. Martin or Mr. Stanley or any of their physicians; is that right?

A Not deposition transcripts, no.

Q And by the same token you have not seen deposition transcripts of any of the other experts who may have testified?

A No.

Q Would it be relevant to your opinion to have read other expert reports?

A In other cases that I've reviewed, at times it is helpful to see the opinions of other experts. Without actually having seen the report it's difficult for me to tell you whether or not it would have been.

Q Would it have been pertinent to your opinion to have read the testimony of plaintiffs' treating physicians? That would be Mr. Martin and Mr. Stanley's treating physicians; his ophthalmologist, his neuro-ophthalmologist and his other physicians?

MR. THORNBURGH: Objection.

THE WITNESS: I think it would add some additional information. In the medical records there was, I believe, a letter that was

prepared by one of the plaintiffs' physicians commenting on his opinion as a causation, but as far as the actual depositions, no, I didn't see those.

BY MR. SLONIM:

Q Can you tell us the process that you went through in preparing the reports? You -- You said that you were -- you had received a CD on or about November 17th, that you had some phone calls on the -- November 23rd through November 26th. And then can you tell us how you went through that process of preparing the reports?

A Yes. What I first did is after receiving the records and retainer is I took the CD ROM and I printed all the records out. I prefer, when I review records, to look at paper copies rather than looking at them on a computer. Organized the records in chronological order for each case. Read from the beginning, earliest record, to the most recent record, and then at that point prepared letters on each individual case that I entitled Review of Records, and briefly summarized in chronological order what had occurred with each plaintiff.

After that I presented my opinion as

to causation to a reasonable degree of medical probability. I quoted one of the articles that I had used -- or actually, let me back up here. I also, after reviewing the medical records, did my literature search, as we talked about earlier, and then after reviewing the records and the literature search, in the process of preparing the letter commented on, a brief capsule summary, of what had transpired clinically, my opinion as to causation with some supporting references from the literature, and then finally summarized the conversation that I had with each of the plaintiffs in terms of what their experience had been and how the visual changes had impacted their -- their lives in terms of employment, recreational activities, et cetera.

And then the last part of the report was a -- an opinion as to my impairment -- or actually, it was an impairment-based rating based the 6th edition of the AMA guides to the Evaluation of Permanent Impairment, which I brought with me today, and I assigned a -- a visual system impairment rating to each of the plaintiffs.

Q Okay. Did I understand that you had prepared a --

a summary of your record review?

A That was in -- in the letters dated to Mr. Richards.

Q In other words, that's the beginning where you have a little bit of a -- of a summarization of the facts.

A Correct. Correct. That's a summary.

Q Did you -- Did anyone assist you in any way in preparing your reports?

A The only assistance I had was my secretary, who transcribed my dictated report, and then when I had corrections after I red penciled it she changed those things. In terms of assistance with anything else, no.

Q Did you -- Did you -- You generated an original draft from your dictation and then you marked that up?

A Correct.

Q And how many drafts did you go through?

A Approximately two.

Q Do you have the drafts?

A No.

Q What happened to the drafts?

A They were destroyed.

Q Do you have the original dictation tape?

A That is erased after we use -- after we use the tapes because we reuse them.

Q Are you sure about that? There is a subpoena, and that would be responsive material to the subpoena.

MR. THORNBURGH: Objection.

BY MR. SLONIM:

Q Let me -- Well, are you -- Sitting here today, are you positive that that tape has been destroyed, or do you think it might still be in existence?

MR. THORNBURGH: Objection.

THE WITNESS: The term destroyed is probably not correct. After we use our tapes they're passed through a magnet so they may be reused for other dictation. So it's my opinion that that dictation is not extent on a tape currently.

BY MR. SLONIM:

Q Did you provide the report in draft form to plaintiffs' counsel for their input?

A No. I sent them the final report. That was the first thing I sent them.

Q How much time did you spend preparing your report? I noticed there was some documents that looked like time records.

A Yes. I did print off --

Q Why don't you identify this document?
A Yeah. That is a printout of the time spent on Mr. Stanley's case. November 25th, records review, plus conversation with Mr. Stanley by phone, a total of 120 minutes. The following day, November 26th, 120 minutes spent preparing and editing the report. I also spent an equal amount of time with Mr. Martin's.
Q Let me ask you to take a look at this. These are not quite identical copies, and I was wondering what the explanation was. They have slightly different dates.
MR. THORNBURGH: Objection.
THE WITNESS: They do. I believe that -- Let me take a look here.
BY MR. SLONIM:
Q And I didn't see a counter one for Martin.
A For Martin, that's correct. Let me take a look and see if -- I know I reviewed and prepared the report on Martin after the report on Stanley. I believe this November 26th-November 28th entry should say Martin instead of Stanley.
Q Okay. So there was -- So even though they both say Stanley, your best recollection now is that one of those applies to Mr. Martin and one applies

to Mr. Stanley?
A Correct.
Q And in each case you spent approximately -- a total of approximately four hours over -- over two or three days?
A Correct.
Q And was -- is there any time that you spent working on the reports that are not reflected in those time entries in connection with your literature search or anything else?
A No. That reflects all my efforts up to the point when I dictated the letters and reports that I sent to Mr. Richards.
Q Okay. And you may have said, but can you tell us your rate of compensation in connection with this matter?
A Yes. I charge $350 per hour for review of records, telephone conversations, preparation of reports. I also charge $500 per hour for deposition time. For actual court testimony time $500 per hour with an eight-hour minimum, to include necessary expenses to travel if that's necessary, and then $125 per hour for actual travel time.
Q Okay.

A And I think I have, in one of my correspondences I think I --
Q The rate?
A -- had that -- yes.
Q There was a sheet.
A The December 1st letter to Mr. Richards. And then I have a deposition cancellation fee.
Q You explained to me that prior to today's deposition that you had spent about a half hour meeting with Mr. Thornburgh and that you, in the course of that, had reviewed the documents that you had brought with you. Is there anything else that you did in order to prepare for today's deposition?
A Yes. Last night I spent approximately two hours reviewing all the records that I had and looked at the books as well, which is a practice I do before I do any deposition.
Q You set forth your opinions in your expert reports; is that correct?
A Correct.
Q Are there any opinions that you intend to offer that are not set forth in your report?
A Can you rephrase that or ask that again?
Q When you -- When you wrote your opinions in your

report, is that the entire extent of the opinions that you intend to offer in this matter?
A Well, I guess that would depend on the questions that you ask me today. I would be willing to answer questions that I feel are in my realm of expertise and training. And frankly, my expertise and training goes far beyond what was in those prepared letters.
Q But in terms of your intention to -- Well, strike that. What did you understand your -- your mission was in -- in preparing the expert report? What did you understand the scope of the report was to encompass?
MR. THORNBURGH: Objection.
THE WITNESS: I was retained to comment on, first, the impact of the visual loss on the activities of daily living for these two plaintiffs, and secondly to comment on what I felt the mechanism or physiologic mechanism of the injury to the optic nerves was.
BY MR. SLONIM:
Q And that's what you've set forth in your report?
A Correct.
Q Okay. Is there anything else upon which you intend to opine?

A Other than physiologic mechanism, the role that the Viagra played and the impact on the activities of daily living and the percent impairment rating, those would be the things I would comment on that. Outside of that, no.
Q I'm sorry. Have you set forth the bases for your opinions?
A Yes.
Q And is there any material that you're relying on that's not listed in your report?
A The -- Well, I brought supporting documents along with me that are not specifically referenced in the report, yes.
Q So you're relying -- Are you relying on those in addition to the material set forth in your report?
A Yes.
Q Anything else that you're relying on?
A Well, my -- other than my -- my training and background and board certification in ophthalmology experiencing patients, I would say that would be the extent of it.
Q Can you identify the materials that you -- that you brought with you? And I think what we'll probably do is -- is mark them as -- as various deposition exhibits.

A Okay. I'll start at the top of the pile and work my way down, is that okay?
Q Sure.
A First, CD ROM titled Martin Medical Records, Stanley Medical Records.
Q Let's mark that as deposition Exhibit No. 1.
(Exhibit No. 1 was marked for identification.)
THE WITNESS: Do you need to see these documents? Okay.
BY MR. SLONIM:
Q You can hold them up, that's fine.
A Second document is a legal pad sized piece of paper with my handwritten notes on Mr. Martin, which I was preparing when I reviewed the records and also when I spoke to him by phone.
Q Let's mark that as deposition Exhibit No. 2.
A There are two pages of these.
Q Is that dated, by the way?
A No. It does not have a date on it.
Q Okay.
(Exhibit No. 2 was marked for identification.)
THE WITNESS: Next exhibit is three legal sized pieces of paper with my notes on --

handwritten notes on Richard Stanley, also undated.
BY MR. SLONIM:
Q Okay. Let's mark that as deposition Exhibit No. 3.
(Exhibit No. 3 was marked for identification.)
THE WITNESS: Next is --
BY MR. SLONIM:
Q I don't know that it's necessary for you to hold it up. Let's -- It will move it along quicker.
A This is just addresses of Zimmerman Reed and Aylstock Witkin Kreis & Overholtz, contact information.
Q We'll mark that as deposition Exhibit 4.
(Exhibit No. 4 was marked for identification.)
THE WITNESS: Next is a fax cover sheet dated December 1st, 2008, letter or correspondence from myself to Jason Richards dated November 26, the review of records regarding Mr. Stanley's case and a review of records regarding Mr. Martin's case dated December 1st, 2008, and we have some copies of these as well that they're all --

BY MR. SLONIM:
Q Are those -- Are they identical copies?
A Some -- I believe some of these copies I signed in the -- in the -- In the interest of expediting these reports my secretary signed some of these and put my initials, but the reports were unchanged after I signed the originals.
Q Okay. I'm going to mark that as deposition Exhibit No. 5.
(Exhibit No. 5 was marked for identification.)
THE WITNESS: My expert trial and deposition testimony records as requested, deposition court testimony --
BY MR. SLONIM:
Q And that's just a listing --
A -- hearings.
Q That's a list that you prepared?
A Correct.
Q We'll mark that as deposition Exhibit No. 6.
(Exhibit No. 6 was marked for identification.)
THE WITNESS: Then I have multiple articles and abstracts regarding ischemic optic neuropathy and association with Viagra use. I

don't know if you want to individually identify all those because there's about 20 of them.
BY MR. SLONIM:
Q I think let's -- Let's mark those as a group, and if we need to come back we can.
A Maybe as a group as literature search or references. Let me make sure I've got all those for you there. Yes, that's all the literature.
Q And let's -- What we'll do, Dr. Williams, and, Dan, is put a paperclip around those since it's just a -- several loose articles.
(Exhibit No. 7 was marked for identification.)
THE WITNESS: Correspondence from Ann Hansen, paralegal for Zimmerman Reed, with -- It was basically a letter that accompanied the CD ROM. Once again, duplicates of their contact information, fax cover sheets and a letter detailing my fee schedule, and then a copy of the Martin report and then a copy of my previous depositions and court testimony.
So all the things you already have, I brought all the copies, and then the two billing sheets here.
BY MR. SLONIM:

Q Let's keep the correspondence separate. We'll mark the correspondence and attachments as Exhibit No. 8, and let's keep the time records for -- Do you know which one is Martin? They both say Stanley. Can you tell which one is Martin and which one is Stanley?
A Can I take a look at this here?
(Exhibit No. 8 was marked for identification.)
BY MR. SLONIM:
Q Yeah, sure.
A The first one, November 25th-26th is Stanley. The November 26th-28th is Martin.
Q Let's do this. Let's mark Stanley as Exhibit 9. And let me ask you to take a pen and just make the correction on the document and initial it, please, and we'll mark Martin as deposition Exhibit No. 10.
(Exhibit Nos. 9 and 10 were marked for identification.)
THE WITNESS: You've already marked that. I brought two copies of my current C.V.
BY MR. SLONIM:
Q We'll mark that as -- Well, I think we only need one. They're identical?

A Yeah.
Q Okay. We'll mark the C.V. then as deposition Exhibit No. 11.
(Exhibit No. 11 was marked for identification.)
THE WITNESS: I have a handwritten message that Mr. Richards called me and ask that I call him back dated November 25th. On the reverse side contact numbers for Mr. Martin and Mr. Stanley. And then a cover letter that accompanied the retainer check, once again from Ann Hansen, paralegal, dated November 18th, and then an actual copy of the initial retainer check.
BY MR. SLONIM:
Q We'll mark that group of documents as Exhibit No. 12.
(Exhibit No. 12 was marked for identification.)
THE WITNESS: The subpoena that I received last Thursday afternoon before I was headed out of town.
(Exhibit No. 13 was marked for identification.)
BY MR. SLONIM:
Q Okay.

A All of the records on Mr. Stanley.
Q Okay. And that's a pile.
A Correct.
Q And we'll mark that -- that group of records as Exhibit No. 14.
(Exhibit No. 14 was marked for identification.)
BY MR. SLONIM:
Q I notice that you put some Post-its on there.
A Yes.
Q Did you put any other markings on there? Any handwritten notes or delineations or anything?
A I do not believe so. Just the Post-it notes.
Q Okay. Let me just see if my colleague can find a rubber band. All right.
A Sum total of all of Mr. Martin's records with Post-it notes.
Q Can you find that other rubber band? Oh, excellent. Thank you.
(Exhibit No. 15 was marked for identification.)
BY MR. SLONIM:
Q We've marked Mr. Martin's records as deposition Exhibit No. 15.
A Then a medical summary that accompanied the

records on Mr. Martin detailing the -- his medical -- or clinical encounters between May 10th, 2000 and March 30th, 2005.

Q Who prepared that?

A I know I didn't prepare it. It would be my opinion that I believe I received this from Mr. Richards.

Q Okay. And there's some handwriting on there or --

A Yes. I highlighted a passage there.

(Exhibit No. 16 was marked for identification.)

BY MR. SLONIM:

Q Thank you, Dr. Williams.

A Now, if you want to mark the books --

Q No. I think what we should do is let's identify and maybe we can get copies of the pertinent chapters. Tell us what books -- You brought two with you.

A Yes. First book is the Guides to Evaluation of Permanent Impairment published by the American Medical Association, 6th edition.

Q And was there a particular chapter or pages that you referred to?

A Yes.

Q Which chapters are you relying on?

A And what we can do is, if you're interested, I can copy this chapter for you at a nominal fee and send it. The chapter on the visual system, and I can tell you the pages exactly. Chapter 12, beginning with page 281.

Q Is that something you used in -- in --

A Determining the degree of impairment rating, correct.

Q Okay. And was there another Post-it there?

A Yeah. That's actually in the chapter itself, I've got --

Q I see.

A -- posted on the page that discusses specifically rules for calculating impairment for visual field loss. The classification of impairment, the visual system, of the whole person table.

Q What's the Post-it? Oh, okay.

A Yeah. The evaluation of permanent impairment form, and then the combined values chart.

Q Okay. What I think would be helpful is if, as you suggested, that you could make a copy. You're going to be supplying some additional materials to us in response to the subpoena. If at that time --

A What I could is I could make a copy of that

chapter and put Post-its where I have them in here.

Q That would be perfect.

A Okay. The next or last book here is -- it's called a Practical Approach to Occupational and Environmental Medicine, which is the -- what we like to think of as the Bible of our specialty. And I've put a Post-it note on Chapter 34, which is a chapter on occupational ophthalmology, which I was a co-author on with Dr. Bernie Blaze and Dr. Tom Tredagee (phonetic).

Q Did you rely on that for -- in connection with your work?

A Yes, I did. Specifically the section entitled Screening for Eye Disorders in the Workplace, How to Evaluate Vision for Various Jobs. Occupational ophthalmology is a subspecialty which looks at the importance of vision to performing certain work-related tasks.

Q I'm going to just put these back in -- in numerical order by exhibit number so we can refer to them if we need to. I'm going to hand these back to you, Dr. Williams.

A Okay.

Q I was going to ask you to turn -- Oh, I'm sorry.

I was going to ask you to turn to the, I think it's Exhibit No. 13, which is the subpoena.

A Okay.

Q Okay. Can you turn, please, to Attachment A?

A I'm there.

MR. THORNBURGH: I'm going to raise the initial objection related to the subpoena and the duces tecum requests. As I explained previously, the Doctor did not receive the subpoena or the request until Thursday, the night before he went out of town. Hasn't had time to -- no reasonable time to pull together the entire request. So I think we -- we talked about maybe extending that time.

BY MR. SLONIM:

Q No. I -- I understand that you haven't had sufficient time to get the materials.

A Right. And at the time I received the duces tecum I was in the process of leaving town for military duties in San Diego, so had no time Friday, Saturday or Sunday to do this.

I did offer to Mr. Thornburgh an offer to delay the deposition to give me time to -- to find these materials, and it was my understanding that the thought was let's have the deposition

rather than continuing it and then come up with materials later. Was that correct in that assumption?

Q Yes, that's correct.

A So no intent to be in contempt of the subpoena.

Q I understand completely. Let me ask you this. In your review of the subpoena you believe that you will have in your possession other materials that will be responsive, correct?

A I think if we -- maybe we could go line by line. I can tell you what I can produce and what I can't, if that would be helpful.

Q That would be helpful. And I understand that if you find something that escaped your recollection today, that's perfectly understandable, but why don't you tell us what you think you may have that you haven't brought with you today.

A Certainly. We'll start with number one. You're asking for all documents, materials published or unpublished you intend to rely on as a basis in whole or part for the opinions you intend to express in this litigation. I believe that I brought those with me today.

Number two. All materials and documents obtained, received, reviewed, considered

or consulted by you in connection with this litigation whether you found the matter contained in these documents or materials to be helpful or not. I'm probably going too fast. The documents and materials requested include all records, data, depositions, statements, transcripts, medicals, whatever that is, articles, books and correspondence. I believe I may have some e-mail correspondence back and forth as to, you know, when do you want the report, I haven't got the check yet, I should be able to recover those and print them.

Number three. Documents not limited to -- including, but not limited to notes, data, spreadsheets, reports, draft reports, records and computer disks prepared or otherwise recorded. I brought all that with me today.

Articles or papers you have written, presented or participated in writing or presenting that relate to or concern the subject matter of your testimony in this litigation. I would say that I would have those with me today.

Drafts of such articles, papers or presentations, photographs or videos. I think requirement four is complied with.

All documents concerning any research that you have undertaken that relates to or concerns the subject matter of your opinion. I believe we've got all that.

Number six. Correspondence or other documents reflecting communications. As I mentioned, e-mail correspondence, I believe I can print off some things that I don't have with me today.

Number seven. Writings, notes or tangible evidence concerning conversations you have had with anyone concerning or relating to your opinion. That would be included in the materials I brought today, as well as the e-mail correspondence that I'll bring.

A list of cases I've testified as an expert witness, past 10 years. Brought that. Copies of all affidavits, reports, declarations or sworn testimony. That's going to be a problem. Generally, as a deponent, I'm not provided with a copy of the deposition unless I specifically request it.

Q This doesn't require you to do homework. If you have something reasonably in your possession, custody or control, that's what -- that's all we

ask for.

A Okay. Number 10. All documents including reports, affidavits, draft reports, e-mails, other correspondence received from or provided by -- to any other expert or potential expert. I've not had any communications with any of the plaintiffs' experts or potential experts.

Documents sufficient to establish the amount of time you spent. Brought those. Corrected that one to -- that I just signed off on. A listing including name, address and telephone number of everyone who assisted you in forming your opinion and preparing your report. Well, as I said, I prepared the opinion myself, so I didn't rely on --

Q That's fine.

A -- calling up another expert. Documents including web sites maintained on your behalf which reflect any advertising you have conducted regarding your services as an expert witness. I can provide that. May I borrow your pen there?

All documents you have provided to or received from any expert witness. There aren't any. Any and all opinions where your qualifications of an expert witness have been

limited or rejected by a judicial or administrative tribunal. There have not been any instances where my qualifications have been rejected, so there's no documents for that.

Any and all documents relating or concerning any criminal charges other than traffic offenses. I did run a red light in San Diego a few months ago and was caught by their camera, so -- but I don't believe that would qualify under there and -- but I did go to traffic school so my record's expunged.

Any and all documents including all judicial pleadings concerning any malpractice or disciplinary proceedings. I have no malpractice claims or disciplinary proceedings. I would say we probably have the bulk of what was requested.

Q Yes, you do. This is one of the original exhibits, so let's leave that with you.

A Okay.

Q One of the documents I know we marked was your C.V. Let's see if we can find that one. What exhibit is that, please?

A 11.

Q Without reading us your C.V., can you just give us a brief overview of your education and training

starting with college?

A Yes. Bachelor's degree in Zoology, Summa Cum Laude, Texas A & M University, 1979. Medical degree, University of Texas, Southwestern Medical School in 1982. Internship, Baylor University Medical Center, '82 to '83. Internship was in Internal Medicine. Ophthalmology residency, University of Miami, Bascom, B-A-S-C-O-M, Palmer Eye Institute, '83 to '86.

Fellowship in Vitreoretinal Disease and Surgery, Duke University, '86, '87. Instructor in Ophthalmology and Chief Resident at University of Miami, Bascom Palmer Eye Institute, '87, '88. In addition to this, Master's of Public Health degree, University of Michigan, 1999. Residency in Occupational Medicine, 1998 through 2000, University of Michigan as well. Board certification in both Preventive Medicine, specifically Occupational Medicine and Ophthalmology.

Q Now, you're currently the Medical Director of Aspirus Occupational Health; is that correct?

A Yes.

Q And what year did you join Aspirus?

A In July of 2003.

Q Can you tell us what your duties and responsibilities are at Aspirus?

A Yes. Aspirus is a -- a multi-specialty group with a clinical network of approximately 274 physicians who service Central and Northern Wisconsin, as well as the Upper Peninsula of Michigan. We have about 45 different specialties, and I -- and we have six affiliated hospitals, and I provide occupational health services, as well as consultations for the group.

Q Can you tell us what occupational medicine encompasses?

A Yes. It's a specialty that deals with the health of a person or worker and the impact that illness or injury may have upon their ability to do a particular task. It's a broad range of -- It's a broad -- actually, a very broad specialty that encompasses several different subspecialties including orthopedics, physical medicine, ophthalmology, internal medicine, family practice, psychiatry. We do have elements of those specialties within our speciality, particularly as it relates to a person's ability to perform a task, whether it's for gainful employment or work around the house.

Q Since July 2003 has the focus of your medical work been on occupational medicine as opposed to ophthalmology?

A Correct.

Q According to the curriculum vitae, you serve as a medical consultant to a number of corporations; is that correct?

A Yes.

Q For each of those corporations could you just describe your responsibilities?

A Yes. The NewPage Corporation Paper Company, that actually had acquired the corporation below it, Stora Enso North America. Responsibilities include seeing and taking care of injured and ill workers, development of company policies with regard to health and safety, worked with corporate compliance as it relates to compliance with OSHA and other federal and state regulations that deal with -- with employment safe work practice.

The performance of what are called fitness for duty exams that assess a person's ability to perform a certain job or task. The review of worker's compensation claims, review of disability retirement applications, and consultant in -- for the executive suite to provide travel

42

medicine services, to also provide executive physicals, and to perform vision screening in treatment of eye injuries that occur in the industrial environment.

The relationship with Stora Enso and its successor NewPage began in 2001 and involved approximately two-and-a-half days per week working in our Wisconsin Rapids office performing that work.

Q These are essentially manufacturing facilities?

A Correct. Yeah. This -- It's a -- makes paper. Paper company.

Q Okay.

A Roehl Transport is a large trucking firm and I work as a paid consultant for them also providing similar types of consultations as I previously mentioned. The trucking industry is federally regulated so they have specific requirements in terms of a person's ability to see, person's ability to hear, blood pressure. Certain medical conditions can prevent a driver from being certified, so it is an environment that is probably the most regulated environment of workers that I normally deal with.

Medical consultant for Wausau Paper.

43

That's another large paper company located here in Wausau. Greenheck Fan Corporation, multi-national corporation that makes industrial fans. Merrill Iron and Steel, a local iron and steel manufacturing company.

I'm the Medical Director of Employee Health for Riverview Hospital in Wisconsin Rapids, Wisconsin, a town about 45 miles from here. It's a -- I believe a 79-bed hospital, and I deal with any issues that regard illness or injury with hospital workers; nurses, laundry personnel, nursing assistants, et cetera.

I work as a Medical Advisor for the Wood County Health Department, Wood County being the county immediately south of Marathon County where we're located. My duties there involve -- I'm the physician for the Health Department. I'm also a member of the Wood County Health and Human Services Committee, which is a committee that has oversight of approximately $60 million worth of the Wood County budget.

I am a peer -- member of the Peer Review Committee here at Aspirus Clinics where we review fellow physicians' requests for clinical privileges, that sort of thing.

44

Q Let me ask you, is your work as a medical consultant to these companies that are listed on your C.V. and that you just described, is that under the auspices as Medical Director of Aspirus Occupational Health, or is it --

A Yes.

Q That's encompassed within your occupational health work at Aspirus?

A Yes. Correct.

Q I see. Is there work at Aspirus Occupational Health apart from the medical consulting that you do for these various companies?

A Yes, and that's one of the reasons we have to be done by noon is yes, I see patients who are referred -- well, I'll tell you there are multiple ways the patients can come to me. They may come in with, for example, a work-related eye injury. They may have been seen in one of our emergency rooms or urgent care clinics with an eye problem or another work-related injury, and then they're referred to us for follow-up.

I may receive a patient in consultation from, you know, one of the 274 or 275 physicians in our group practice who has an occupationally-related issue that they want my

45

commentary and opinion on. And then I also receive consultations, similar to this one, where I'm asked to provide expert opinions as to an ophthalmology problem. And I provide those not only here in Wausau, but I travel throughout the state and I've also, on occasion, gone out of state to provide those opinions.

Q Have you ever worked as a consultant for a pharmaceutical company?

A No, I have not.

Q Did I understand, as you described your various responsibilities, that some portion of your time is spent where you would actually be treating patients?

A Correct.

Q And can you tell us approximately, let's say, over the past year, what percentage of your time would be spent in treating patients?

A I would say between 50 and 60 percent of my time.

Q And it sounded like you see patients with a variety of conditions?

A Correct.

Q Can you -- If there's a way for you to describe the approximate breakdown of conditions, I don't know if that's possible or not, but if you

46

could --
A I would think so. Musculoskeletal issues, strains, sprains, fractures, I would estimate probably 30 percent of the patients we see. Burns, cuts, lacerations, bruises, slips and falls, perhaps another 20 percent. Then -- So we're probably about 50 -- 50 percent there.
The other half would include patients that I'm seeing for specific consultations as to fitness for duty. For example, I do a pre-placement exam on an employee that once has been offered a position as a flight paramedic who's colorblind, and I'm asked to provide commentary as to whether or not that person is safe to operate in an aviation environment being colorblind.
Or I'm being asked we have a forklift operator who recently had an accident, he tells us that he really only has one eye because he lost one in a childhood accident, is it safe for him to continue operating a forklift.
So those I would call more specific fitness-for-duty-type referrals, workability referrals. So I would balance it between sort of 50/50 between acute and then these -- these

47

special requests.
Q Since the time you joined Aspirus in July 2003 have you treated any patients who had NAION, nonarteritic anterior ischemic optic neuropathy?
A Yes. I did provide a -- actually, it was a -- it was a case in which my expert opinion was requested on a fellow who had had a nonarteritic ischemic optic neuropathy in both eyes, and he was located in Montana. I reviewed the case and traveled to Montana and obtained a temporary medical license there and saw the patient, formulated an opinion and returned here.
Q What was the consultation in connection with? Was it litigation, or something else?
A Yes. It was a -- a case in which the patient had -- had claimed a significant visual disability in that he claimed that he was unable to -- to see to even walk around. And it was his opinion and his attorney's opinion that a series of orthopedic surgical procedures he had had after a work-related accident had led to the sequential nonarteritic ischemic optic neuropathy where the fellow had lost vision in one eye and then the second eye.
He had claimed a significant

48

disability. The insurance company that was at risk for paying the claim did not feel that his disability was as significant as he claimed it to be.
Q So the issue on which you were asked to consult related to the degree of impairment?
A Correct.
Q Did it relate to the cause of the NAION?
A That as well, yes.
Q And what was your view about the cause of the NAION?
A Well, it was an interesting case. He had had -- He'd fallen off a roof, he'd injured his knees and had had multiple knee surgeries. It was his supposition and his attorney's supposition that in the course of these surgeries his blood pressure had dropped so low that he had a -- essentially a stroke of the optic nerve, or the nonarteritic ischemic optic neuropathy, the medical term.
In the first case the loss of vision was remote from the period of time that he had actually had a surgery. It was some two months later, I believe. In the second there was some close proximity to the time of one of the surgeries.

49

He had multiple medical problems, including untreated hypertension. He was a heavy smoker, heavy consumer of alcohol and elicit drugs, and I believe he was also rather obese.
It was my opinion that, to a reasonable degree of medical probability, that the first instance where he lost vision two months distant from the surgery, that it was unrelated to the surgical procedure. In the second case I also felt that the second loss of vision, that it was more likely than not due to his -- the medical issues that I previously mentioned.
Q Are there certain issues that put a patient at risk for developing NAION?
A Yes.
Q What are those issues?
A Hypertension, diabetes, cardiovascular disease. Those are the primary things. A small what we call cup-to-disk ratio. If you think of the optic nerve as being cup shaped and the entire nerve being a disk, the ratio of the size of the cup to the area of the disk itself is denoted a cup-to-disk ratio.
Normal is in the .3 to .5 range. A very small cup-to-disk ratio with a small

50

indentation in the disk, on the order of .1, may predispose a person to a nonarteritic ischemic optic neuropathy. Those are the main risk factors.

Q Did you provide any treatment to that particular patient?

A No, I did not. I saw him for a one-time examination.

Q Um-hum. Why did you travel to Montana to see the patient?

A Well, the plaintiff's attorney felt that due to his visual disability he would be unable to travel here to Wisconsin.

Q And was this something that you felt in order to assess his degree of impairment that it was necessary for you to -- to personally examine him?

A In that particular case, yes, because one of the issues that was -- one of the main issues was that it was felt by the insurance carrier that his vision was actually better than what he was telling his -- his treating providers.

There was some talk that he had been observed actually driving a vehicle, and his claim was that he couldn't see well enough to get up and walk across the room.

51

So in that sort of setting, if there's any sort of question as to functional visual loss, meaning loss of vision that's not anatomically explained, the direct observation may be helpful. And in that particular case I felt it was. There were some things that I observed on my examination that indicated to me that he was seeing better than -- than he indicated when asked to read an eye chart.

Q And approximately when was it that you saw this particular patient?

A Let's see. That would have been -- It was last year. I just can't say specifically. I believe -- I believe it was in the fall. Let's say the -- I think around the fall of 2007.

Q Okay.

A But don't hold me to that. If you want to know, I can look it up.

Q No, no. I don't think we need a precise date. Since July 2003, to the best of your recollection, have you seen any other patients with NAION besides this gentleman from Montana?

A I believe he's the only one.

Q Now, in your C.V. that was marked as deposition Exhibit No. 11, does that accurately reflect your

52

professional publications and presentations?

A Yes.

Q And is it correct that your last professional publication was in the year 2003?

A Let me take a look just make sure.

Q You should have it in front of you.

A Oh, okay. Yes. My last major publication -- Now, I've written some newsletter articles that really I don't include in -- in this particular list because generally in a C.V. for a physician we're including peer-reviewed --

Q Scientific articles.

A Correct.

Q And do any of your publications, professional publications, concern NAION?

A No, they do not.

Q Have you given any -- given any professional presentations concerning NAION?

A No, I haven't.

Q Do any of your professional publications discuss Viagra?

A No, they do not.

Q And have you given any professional presentations regarding Viagra?

A No, I have not.

53

Q One of the documents that we marked in your collection was your expert -- a list of your expert testimony and trial testimony and deposition testimony, correct?

A Correct.

Q And that's Exhibit 6. Do you have that in front of you?

A Exhibit 6. Could we take a break?

Q Of course.

VIDEOGRAPHER: This ends tape number one of the video deposition of John M. Williams, Sr., M.D., on January 13, 2009. The time, 10:18 a.m.

(Recess taken.)

VIDEOGRAPHER: This is the beginning of tape two of the video deposition of John M. Williams, Sr., M.D., on January 13, 2009. The time, 10:24 a.m.

BY MR. SLONIM:

Q Dr. Williams, before we broke you were telling me about this gentleman in Montana who you had examined with regard to a NAION injury --

A Correct.

Q -- and the extent of impairment. Did you prepare a report in that case?

A Yes, I did.
Q Okay. Do you have a copy of that report?
A I do have a copy.
Q Okay. And that would be one of the materials that would be encompassed by this?
A Yes. And perhaps -- can somebody take a note of the things that I need to get to you and that way I'll make sure I have everything.
Q We'll work with your -- with the plaintiffs' counsel.
A Okay.
Q The -- I also wanted to ask you in connection with that case, did you give any testimony?
A I did not, was not deposed, and no trial testimony.
Q We've marked as deposition Exhibit No. 6 a document prepared expert trial and deposition testimony, John M. Williams, Sr., M.D., M.P.H. Is this a document you prepared?
A Yes.
Q And is this a complete list of your prior deposition and trial testimony?
A There may be some cases that predate 2002 that I don't have on there, but this is, I would say, as accurate as what I can pull together.

Q Is the NAION case listed on this schedule?
A No, because all I've detailed here are just the cases where I gave deposition or trial testimony. If I had to put every case I've done an expert report on, this would be many pages long.
Q Okay. I notice that many of the cases here are worker's compensation matters; is that correct?
A Correct.
Q Can you categorize the types of injuries, if possible, for the --
A Sure. We can start at number one and work our way down. The Guy Dupee case was a case in which a worker for Stora Enso, the company I worked as a medical consultant for, had claimed a work-related back injury. The company contested the claim, had video surveillance on the worker indicating that he was much more capable of performing the job-related tasks than what either he or his doctor said. And it was my job there to speak for the company, as well as to give testimony at the worker's comp hearing and comment on the video deposition tape.
Q Okay.
A Cases two and three, John Deferro, that was a case that I had done. Initially started as an

independent medical exam. The worker, I believe, had claimed a back injury related to working in a copper mine, and it was a case that had -- initial claim, I think, was 10 years prior to when I actually had seen him, he had had multiple surgeries, and they were looking at trying to close the claim and come up with an impairment rating for him.
Q On whose behalf did you testify?
A That was on behalf of the insurance carrier.
Q Okay. Next one would be number four.
A Lederhaus versus Seter, medical malpractice case. It was a case in which Mr. Lederhaus was working at a foundry. He had struck a piece of metal that hit him in the eye. He went to see Mr. Serrano, a physician's assistant who worked for Dr. Seter. He -- Mr. Serrano did not see the foreign body that had actually penetrated into the -- into the posterior portion of the eye, and Mr. Lederhaus had this foreign body there for some months and developed a condition in the eye that led to a serious deterioration of his vision due to a retained inter-occular foreign body. In that case I testified on behalf of the plaintiff, Gary Lederhaus.

Next case, Simon versus Medical Associates, also a medical malpractice case. Simon -- Testifying for the plaintiff, Mr. Simon. He was seen for a follow-up exam for glaucoma. A technician was performing a pachymetry examination on him, which is a -- a type of ultrasonic test that measures the thickness of the cornea. It's the first time the technician had ever performed the task, had not received significant training, in my opinion, and caused a serious injury to Mr. Simon's cornea, which took months to heal and he still has problems with recurrent corneal erosions. The --
Q On whose behalf did you testify?
A On Mr. Simon's behalf.
Q Plaintiff.
A Plaintiff, right. And in fact, I don't have listed, but I do have -- I believe we have a court date coming up this summer. I just got an e-mail about that a couple days ago.
Lederhaus, once again, we see trial testimony. Santini versus Brunswick, testifying on behalf of the claimant, Mr. Santini. He was injured in a workplace violence incident in which a co-worker basically sucker punched him causing

58

a -- a blowout fracture resulting in intractable double vision. So I testified on Mr. Santini's behalf.

The Azure versus Dr. Grube and Johnson case, medical malpractice, testifying on behalf of the plaintiff, Heidi Azure. Young woman in North Dakota. She and her husband were shooting off some fireworks. Bottle rocket hit a tree, bounced back, struck her in the eye, caused a corneoscleral laceration.

She went to a local hospital. The laceration was closed. She was referred to Mr. -- or Dr. Grube, a retinal specialist, who looked at her, said you need surgery, vitrectomy and possibly a scleral buckle. Scheduled her for surgery. When he found out that she had no insurance, in my opinion, abandon her. And she had a very poor outcome, ended up developing a blind, painful eye.

Gonzalez versus Galindo, personal injury case. I'm testifying on behalf of the -- of Mr. Gonzalez. Wait a minute. Mr. Galindo, I'm sorry. This was another fireworks case. The two young men were shooting off fireworks around the 4th of July. One of them took some powder out of

59

a firework and constructed a -- an illegal firework in a plastic two-liter bottle that exploded in his face causing a serious eye injury.

Galindo, and I don't have the case in front of me, I may confuse the two, but I believe -- well, Gonzalez obviously sued Galindo because it happened at Galindo's house and he claimed that Galindo's brother had bought the fireworks. In my opinion, the injury that occurred -- There was some disagreement as to whether the injury occurred from a conventional firework versus this homemade firework that Gonzalez made, and it was my opinion that Gonzalez was injured by the -- basically, at own hands by making an illegal firework.

We see Simon versus Medical Associates depo. Witt versus Glazer, another medical malpractice case. Miss Witt developed a retinal detachment and a vitreous hemorrhage, was seen at a hospital and seen by an ophthalmology resident who diagnosed a retinal detachment, discussed it with her supervising physician who agreed with the diagnosis, referred to Dr. Glazer, a retinal specialist.

He looked in the eye, did not see the

60

retinal detachment, presumably because of the vitreous hemorrhage and, in my opinion, missed the diagnosis of the retinal detachment. And that delayed her eventual surgery and she had a poor outcome because of that.

Q You testified on behalf of the plaintiff?

A Correct. Alsaker versus City of Minneapolis. I believe that was a federal civil rights case. Alsaker, a young man that was assaulted by some police officers for the City of Minneapolis. He sustained also a blowout fracture and had intractable double vision. I provided testimony on his behalf.

Witt v. Glazer we've already talked about. And then the final case down there, Pinsonneault versus Snap-on, this particular case I'm testifying on behalf of the insurance carrier for Snap-on.

Pinsonneault was a fellow who was hammering metal on metal while working in an auto repair shop, was not wearing safety glasses as he was supposed to. Piece of -- Chard of metal entered his eye and caused a -- a serious retinal injury. They were claiming that it was due to a defective tool. In my opinion it was due to --

61

Well, my opinion is -- is, as regards the injury, I felt that he was not wearing safety glasses and that's why he sustained the injuries.

Q Have you ever testified in a case involving an alleged injury from a pharmaceutical product?

A I have provided a records review summary on that, but I've not given deposition or trial testimony.

Q What product?

A This was a -- a tooth bleaching product, and I don't have -- Actually, it was in New York, and I'm trying to think of the name of the tooth bleaching product. I don't have it right in front of me, but if that's of interest I can come up with that.

Basically, the claim was that the injured party, a dental assistant, was preparing a -- a binary chemical product. It had a -- a caustic, as well as hydrogen peroxide in it, preparing the gel so the dentist could apply it to the teeth and bleach them.

In the process of preparing the chemical the plaintiff stated that the -- that the syringe that the substance was contained in ruptured, spraying her in the eyes and causing a serious caustic burn of the -- of the eye.

There was no -- no dispute that there was a serious eye injury there. The dispute was as to whether or not the -- the syringe was defective and whether or not the person could have been wearing safety glasses, as she claimed, and sustained the type of injury she did. It was my opinion that if she had been wearing safety glasses the way she claimed to have, she could not have sustained the type of eye injury.

Q. Other than the tooth bleaching product, have you had the occasion to testify or consult on a case involving an alleged injury from a pharmaceutical product?

A. A specific USP pharmaceutical product, no.

Q. Some non --

A. Well, I mean, if we're talking about chemicals, I guess they don't fall in the pharmaceutical realm, so --

Q. No. I want to turn to Viagra, Dr. Williams. Do you know when Viagra was first approved for use by the FDA?

A. I believe it was 1998, but I'm not absolutely sure.

Q. Your memory's very good. March of 1998 was the approval.

A. Okay.

Q. Do you understand that there were reported cases of NAION before Viagra was put on the market?

A. In association with Sildenafil?

Q. No. I may have misspoken, or perhaps you misunderstood.

A. Okay.

Q. You agree that sometime prior to March of 1998 when Viagra was first put on the market there had been cases observed by ophthalmologists of NAION, correct?

A. Oh, certainly, certainly, certainly. I understand what you're saying.

Q. I don't know if I misspoke or you misunderstood. And you also agree that subsequent to Viagra being put on the market in March of 1998, that NAION is diagnosed in people who have never taken the medication; is that right?

A. Correct.

Q. And you agree with me that Viagra could not have caused any of the cases of NAION that were reported either before the drug came on the market or that occurred in people who never took the medication.

MR. THORNBURGH: Objection.

BY MR. SLONIM:

Q. Correct?

A. So you're saying that if a person never took Viagra, then we can't blame Viagra for causing their NAION.

Q. That's what I'm asking you.

A. Okay. I would agree with that.

Q. And you also agree with me that people that developed NAION before the drug was ever put on the market, whatever caused it it couldn't have been the drug.

MR. THORNBURGH: Objection.

THE WITNESS: Correct. The only thing I would state is in one of the articles that I brought there was actually a person who had taken a Chinese remedy, this was reported in -- in November in the literature, that turned out that caused a NAION -- a bilateral case of NAION. And they found when they analyzed what was in this Chinese remedy it was Sildenafil, but that would still apply, I guess.

BY MR. SLONIM:

Q. But you agree certainly for the -- certainly for the people that developed NAION before --

A. Before it was developed, yes. It couldn't -- Yes,

I agree.

Q. Whatever caused it, it couldn't have been the drug, right?

A. I agree.

MR. THORNBURGH: Objection, unless they're a part of some sort of study, pre- study.

BY MR. SLONIM:

Q. What was the cause of NAION in the cases that were -- that were reported before the drug was put on the market?

A. Well, what NAION is in layman's terms is you could think of it as a stroke of the optic nerve. Just like any other tissue in our body, it requires a blood supply. You interrupt that blood supply, the tissues die.

So an interruption in the blood supply to the anterior portion of the optic nerve, anterior meaning the front portion, would result in a nonarteritic ischemic optic neuropathy. So anything that would interrupt that blood supply, and there's a host of different medical conditions. I think we talked about microvascular, meaning small blood vessel narrowing that can occur in hypertension and diabetes, associated with some cardiovascular

66

diseases, associated with some connective tissue diseases, hypotension, H-Y-P-O, a drop in blood pressure to the point where not enough blood is being pumped to those vessels that supply the optic nerve could cause a -- a NAION.

Q And because of those underlying medical conditions that predispose a person to NAION, there's a spontaneous background incidence of NAION in the general population; is that right?

MR. THORNBURGH: Objection.

THE WITNESS: Correct.

BY MR. SLONIM:

Q Do you know what that incidence is?

A The percent of people that develop nonarteritic ischemic optic neuropathy in the general population, I don't have that percentage or figure at hand, but I can find that out for you.

Q You agree that NAION is the most common acute optic neuropathy in patients over 50 years old; is that right?

A Correct.

Q That's well known among ophthalmologists.

A Correct.

Q And you've identified as risk factors for NAION factors including hypertension. That's high blood

67

pressure, right?

A Correct.

Q Cardiovascular disease.

A Correct.

Q Is that right? Hyperlipidemia, high cholesterol?

A Correct.

Q And diabetes?

A Correct.

Q Okay. And do you know if those are the similar risk factors that are associated with erectile dysfunction?

A Yes, they are.

Q And so someone that's predisposed to erectile dysfunction very often has hypertension, cardiovascular disease, hyperlipidemia, high cholesterol, diabetes, those kinds of conditions; is that right?

MR. THORNBURGH: Objection. Objection.

THE WITNESS: Correct.

BY MR. SLONIM:

Q So you would agree with me that the risk factors for NAION and the risk factors for erectile dysfunction overlap; is that right?

A Correct.

68

Q And you would agree with me for that reason that men who have erectile dysfunction are at an elevated risk for developing NAION because they have -- because the same conditions that predispose for erectile dysfunction are the same conditions that predispose for NAION, correct?

MR. THORNBURGH: Objection.

THE WITNESS: Correct.

(Exhibit No. 17 was marked for identification.)

BY MR. SLONIM:

Q I'm going to mark as Exhibit No. 17 an article by Lee, et al., entitled Erectile Dysfunction Drugs in Nonarteritic Anterior Ischemic Optic Neuropathy, published in October 2005 in the American Journal of Ophthalmology. You want to take a minute and look at that?

A Yes. Yes. I -- I've seen this article before.

Q This article discusses the scientific evidence regarding Viagra and NAION; is that right?

A Well, it looks to me to be a review article in which they have summarized results of -- of some studies that -- I believe I see 14 references here and I see a reference to according to Pfizer there have been more than a hundred clinical studies of

69

Viagra, but I don't see those studies referenced, but it looks like it's a review article. It's not -- doesn't look like any new research was performed, but --

Q It's a review article discussing the scientific evidence regarding Viagra and NAION, whether or not there's a causal link; is that right?

MR. THORNBURGH: Objection.

THE WITNESS: Correct.

BY MR. SLONIM:

Q Now, the article notes, as you pointed out to me, that there have been more than a hundred clinical studies of Viagra involving more than 13,000 patients with no reported cases of NAION; is that right?

A That's what -- That's what this states, correct.

Q And in the course of your research have you come up with any reason to disagree with that statement?

A Well, I -- I mean, certainly when you are quoting a hundred clinical studies and you see none of them referenced, I would be curious at least to take a look at it.

Q Have you yourself, Dr. Williams, reviewed any of the Viagra clinical studies to see if there were

70

any cases of NAION?
A No, I have not.
Q So --
A Are you talking about the FDA Phase I, Phase II, Phase III reports?
Q I'm talking about really the Phase III clinical studies. The placebo controlled clinical studies.
A No, I have not.
Q In forming an opinion about whether Viagra is linked to NAION, is that a relevant and important source of information?
MR. THORNBURGH: Objection.
THE WITNESS: I would think it would be one thing that you would take into account, certainly.
BY MR. SLONIM:
Q Sitting here today, based on the research that you've done, you don't have any reason to dispute the statement in this article that there have been more than a hundred clinical studies of Viagra involving more than 13,000 patients with no reported cases of NAION, correct?
MR. THORNBURGH: Objection.
THE WITNESS: Well, without actually looking at the studies it would be difficult to

71

say.
BY MR. SLONIM:
Q Focus on my question.
A Go ahead and state it again.
Q My question is whether or not sitting here today, given the research that you've done as plaintiffs' expert in this matter, whether you have any reason to disagree with the statement that there have been more than a hundred clinical studies of Viagra involving more than 13,000 patients and that there were no reported cases of NAION?
A I would say that's what the author stated in the article. I would not -- I would have to look at the studies to be able to form an opinion myself.
Q But in your research, you've told us you did a Pub Med search, you found no reason to dispute that statement, have you?
A Well, once again, I would say without looking at the actual studies I couldn't comment.
Q Focus on my question, Dr. Williams. You have some articles in front of you that you pulled as a result of a Pub Med search that you described to us.
A Correct.
Q Based on your search of the literature, you have

72

no reason to dispute the statement in this article that there were a hundred studies involving more than 13,000 men, no reported cases of NAION, correct?
A I would -- I would -- I would be uncomfortable stating that. I don't know when these studies were completed. I mean, obviously we know the FDA has made a rather strong recommendation about potential association, so --
Q We'll come to -- We'll come to the FDA recommendation in due course. My question to you, and please focus on the question, based on your research in the published medical literature, you didn't find anything that said there were clinical studies of Viagra from which there were reports of NAION, correct?
MR. THORNBURGH: Objection.
THE WITNESS: Well, there are studies that have reported, which are clinical studies, anecdotal cases of --
BY MR. SLONIM:
Q You know there's a difference between an anecdotal case report and a placebo controlled clinical trial, don't you?
MR. THORNBURGH: That's not the

73

question you asked.
THE WITNESS: What's the placebo controlled clinical trial that you're referring to?
BY MR. SLONIM:
Q I'm referring to the hundred -- the hundred --
A But it doesn't say placebo controlled clinical trial. It doesn't say FDA Phase I, II or III. My discomfort is with what's being referred to there.
Q You see that the next sentence refers to 170 million Sildenafil prescriptions given to 23 million men. You understand that when there's a case report, the case reports come from the general use in the field as opposed to the clinical trials in which there is a placebo controlled comparative group, don't you?
A Correct.
Q Okay. I'm referring and I would like you to focus your attention on the statement that deals with the clinical -- with the hundred clinical trials, and whether or not you encountered anything in the published literature that causes you to disagree with that statement that there were no reports of NAION in the clinical trials.
A Well, I believe I ran across one reference that

74

said that there was some information to the effect that there was some suspicion that perhaps there was an association, but that had not been reported to the FDA until later.
Q. In a clinical trial?
A. In one of the articles that I read.
Q. Not in a case -- Not in a case report. You're representing to us that you found a reference in a published article about a -- about a case of NAION in a controlled clinical study?
A. No. It was an anecdotal report.
Q. We're going to get to the anecdotal reports. Please keep your attention focused on my question. I'm asking about the controlled clinical studies, and if --
A. Which controlled clinical studies?
Q. The controlled clinical studies conducted by Pfizer. The hundred controlled studies referenced here.
A. I'd be happy to look at them and give you my opinion there. I'm not going to give an opinion based on somebody's --
Q. But you are going to give an opinion based on the medical literature that you researched, and I'm asking you if you can identify in any single piece

75

of medical literature a report of a controlled clinical study in which a patient was reported to have NAION?
A. Well, I think at this point it would a hard time performing a study like that getting that past your IRB given the fact that there has been a suggestion there's an association.
Q. I'm asking whether or not when you searched the medical literature you can identify for us, you show us today, a single clinical study in which there was a report of NAION.
A. And you're talking about a case controlled prospective study, is that what your --
Q. Talking about a comparative clinical study where some patients were given Viagra, some patients were given placebo, and the two groups were compared.
A. Okay. Prospective.
Q. Yes.
A. Meaning going -- starting at the beginning, going towards the future, giving one group placebo and one group Viagra and identifying -- No, I'm not familiar with -- with that study.
Q. Okay. You understand that's how drugs are tested.
A. Correct. Of course.

76

Q. Right? Before they're put on the market they're tested, and even after they're put on the market they're tested.
A. Depending on the type of the drug. We certainly have drugs out there that we've been prescribing for years that didn't go through that rigorous type of testing.
Q. But you understand that Viagra, which was approved in 1998, went through a series of controlled clinical tests.
A. Yes, but have I read those tests? No, I haven't.
Q. Are you aware of any controlled studies -- Strike that. Are you aware of any studies that show an increased rate of NAION in patients taking Viagra as compared with similar patients not taking Viagra?
A. No.
Q. Are you aware of any studies that report patients who take higher doses of Viagra have a higher rate of NAION than patients who take lower doses?
A. There was one of the clinical reports that I read that talked about a patient who had taken -- had increased their dosage, and each time they took a hundred milligrams they noticed visual field loss. That's one of the articles I brought today.

77

Q. Focus on my question. My question asks are you aware of any studies that are in the nature of a dose response relationship that show that patients that take a higher dose of Viagra are at a greater risk of NAION than patients that take a lower dose?
MR. THORNBURGH: Objection.
THE WITNESS: So you're saying are there studies out there where -- once again, case control, blinded studies, prospective, going forward, where they've tried increasing doses and found whether there was vision loss associated with increasing doses?
BY MR. SLONIM:
Q. Focus on my question. I want to know whether or not there are any studies, not -- not necessarily prospective, any studies that show a dose response relationship indicating that patients that take a higher dose of Viagra are at a greater risk of developing NAION than patients who take a lower dose.
A. No. I've not seen a specific study that has addressed that.
Q. Now, you talked about the FDA. Take a look, please, at the document we've marked as deposition

78

Exhibit No. 17, and direct your attention to the top right-hand corner. The sentence says, and I quote, "The FDA has been careful to state that they cannot currently draw a conclusion regarding cause and effect, but they continue to monitor the situation." That's what the sentence says; is that right?

A That's correct.

Q And Dr. Williams, it's a fact that the Food and Drug Administration has concluded that it's not known whether Viagra's capable of causing NAION, isn't that true?

MR. THORNBURGH: Objection.

THE WITNESS: Well, I'm looking at an article here from, you know, almost three-and-a-half years ago, and I know for a fact that we've seen more anecdotal reports and more reports in the literature of a -- of a suspected association. So I would wonder what does the FDA say today, 2009, as to whether or not they feel there's a cause and effect association.

BY MR. SLONIM:

Q Focus on my question, please.

MR. THORNBURGH: Objection. He is focusing on your questions. He's answering the

79

questions. You going to keep on asking him until you get the answer you like?

BY MR. SLONIM:

Q You agree with me that as of October of 2005 the FDA was careful to state that they cannot currently draw a conclusion regarding cause and effect --

MR. THORNBURGH: Objection.

BY MR. SLONIM:

Q -- between Viagra and NAION; is that right?

A Well, according to this statement here in the -- in the article, that's what they -- they state, but once again, I would kind of be curious to look at the web site and see if that's, you know, really what it said.

Q Have you looked at the web site?

A I haven't.

Q Let's help you out.

A Not the web site that was referenced in this particular article. Is that what you got there?

Q Let's help you out.

(Exhibit No. 18 was marked for identification.)

BY MR. SLONIM:

Q We've marked as deposition Exhibit No. 18 an FDA

80

statement for immediate release dated July 8th, 2005. Do you see that?

A Yes.

Q And it says FDA updates labeling for Viagra, Cialis and Levitra for rare post-marketing reports of eye problems. Do you see that?

A I do.

Q And do you see that this was published -- was printed -- it was printed, if you look at -- off of the FDA web site on January 8th, 2009. See that?

MR. THORNBURGH: Objection.

BY MR. SLONIM:

Q Lower right-hand corner.

A I see that January 8th, 2009, correct.

Q And do you see that -- Look at the last paragraph of the statement. At this time, it is not possible to determine whether these oral medications, which includes Viagra, for erectile dysfunction, were the cause of the loss of eyesight, or whether the problem is related to other factors such as high blood pressure or diabetes or to a combination of these problems. See that?

A I do see that paragraph.

81

Q So you agree that as of July 8th, 2005, and currently published on the FDA's web site, it says that the FDA is not able to determine whether Viagra causes NAION.

MR. THORNBURGH: Objection.

THE WITNESS: Correct. That's what they're stating here.

BY MR. SLONIM:

Q Okay. Let's mark as the next deposition exhibit an FDA document entitled Patient Information Sheet.

(Exhibit No. 19 was marked for identification.)

BY MR. SLONIM:

Q See that this refers to an FDA alert that was issued in July 2005?

A Correct.

Q And direct your attention, please, right to the middle of the page, middle paragraph, first sentence. Says we, referring -- referring to the FDA, do not know at this time if Viagra, Cialis or Levitra causes NAION; is that correct?

A That's what that says.

Q Okay. And do you see that this article, this web site I published -- I printed off January 8th,

2009? Look at the lower right-hand corner. See that?
A Correct.
Q And do you see at the bottom of the page it says this information reflects the FDA's current analysis of data available to the FDA concerning this drug. FDA intends to update this sheet when additional information or analyses become available; is that right?
A That's what it says there.
MR. THORNBURGH: Objection.
BY MR. SLONIM:
Q So on the FDA's web site, as recently as January 8th, 2009, the FDA says quote, "We do not know at this time if Viagra, Cialis or Levitra causes NAION," correct?
MR. THORNBURGH: Objection.
THE WITNESS: Well, once again, that's what it says, but -- but, let me finish, this is July 2005 and they're saying a small number of men have lost eyesight. I would think if you called up the FDA up today and said is it still a small number, I don't think they're going to repeat that that's still the case.
BY MR. SLONIM:

Q Move to strike. Not responsive. You agree with me that -- that -- that this document, which was printed on January 8th, 2009, states this information reflects FDA's current analysis of data available to the FDA concerning this drug; is that correct?
MR. THORNBURGH: Hold on one second. He just responded to the same question you just asked. He did respond. Asked and answered. Objection.
THE WITNESS: Ask me the question again.
BY MR. SLONIM:
Q Exhibit No. 19, which is from the FDA web site, which was printed on January 8th, 2009, says we, referring to the FDA, do not know at this time if Viagra, Cialis or Levitra causes NAION. And it also says this information reflects FDA's current analysis of data available to the FDA concerning this drug, correct?
A That's what it says.
Q Okay. Now, referring back to deposition Exhibit No. 17, which was the article by Lee, directing your attention to the right-hand side, first full paragraph, Doctors Lee and Newman state that

although case reports to date suggest a possible association between NAION and PDE-5 inhibitors, a causal relationship has not been established conclusively, correct?
A As of 2005 one had not.
Q And they also say that Dr. Fraunfelder's review on this issue reaches the same conclusion; is that right?
A That's what that says there.
Q You don't have any basis to conclude -- Strike that. Now, I noticed that among the articles that you looked at were some case reports by Dr. Pomeranz?
A Correct.
Q Okay. You agree with me that Dr. Pomeranz, in his published case reports, states that a definite causal relationship between Viagra and NAION cannot be determined; is that right?
A Let me have a look at that. Which exhibit are you referring to?
Q Well, we marked those -- Let's do this. I'm going to mark it separate. Just -- I'll mark separate documents so we have it in front of us.
(Exhibit No. 20 was marked for identification.)

BY MR. SLONIM:
Q We've marked as deposition Exhibit No. 20 an article by Pomeranz and others entitled Sildenafil, Associated Nonarteritic Anterior Ischemic Optic Neuropathy, published in 2002; is that right?
A Correct.
Q And this discusses a series of -- or strike that. This case report discusses five patients who developed NAION; is that right?
A Correct.
Q Turn, please, to page 586.
A Okay.
Q I direct your attention to the right-hand side of the page, the next to bottom paragraph.
A Okay.
Q About the middle of the paragraph Dr. Pomeranz and his co-authors write because of a large number of prescriptions for Sildenafil that have been written, the overlap in populations that are at risk for NAION and likely to be prescribed Sildenafil in a small number of cases reported in this article, a definite causal relationship between Sildenafil and NAION cannot be established here; is that correct?

86

A That's -- Yeah, you read it correctly.
Q And you agree with me that Dr. Pomeranz and his co-authors in this case report conclude that a -- a causal relationship has not been -- definite causal relationship between Viagra and NAION has not been established; is that right?
MR. THORNBURGH: Objection.
THE WITNESS: Yes. At the time the article was accepted for publication in July of 2001, I believe that was the author's belief, yes.
(Exhibit No. 21 was marked for identification.)
BY MR. SLONIM:
Q We've marked as deposition Exhibit No. 21 an article by Pomeranz and Bhavsar entitled Nonarteritic Ischemic Optic Neuropathy Developing Soon After Use of Sildenafil (Viagra): A Report of Seven New Cases. This was published in the Journal of Neuro-Ophthalmology in 2005; is that right?
A Correct.
Q Turn, please, to page 12. Direct your attention to the right-hand side of the page, about three-quarters of the way down the page, the first sentence of the paragraph that begins because of

87

the lack of a model in which to test for a relationship between Sildenafil and NAION, a definite causal relationship cannot be established at this time. Is that what these authors wrote?
A Correct.
Q So Dr. Pomeranz wrote in 2002 that a definite causal relationship had not been established, and then he repeated in 2005 that a definite causal relationship cannot be established; is that right?
MR. THORNBURGH: Objection. There are two authors.
THE WITNESS: Correct. That's what it says there.
BY MR. SLONIM:
Q And do you know that Dr. Pomeranz wrote later pieces in which he also said that a causal relationship could not be conclusively established?
A I'm not aware of those articles, and if you've got them with you I'd be happy to look at them.
(Exhibit No. 22 was marked for identification.)
BY MR. SLONIM:
Q We've marked as deposition Exhibit No. 22 an editorial written by Doctors Fraunfelder, Pomeranz

88

and Egan entitled Nonarteritic Interior Ischemic Optic Neuropathy and Sildenafil. This was published in May 2006. Do you have that in front of you?
A Yes, I do.
Q And direct your attention, please, to the right-hand side, about halfway down the page, do you see the paragraph that begins until an animal model?
A Yes.
Q Okay. And these authors, including Dr. Pomeranz, write, and I quote, "Until an animal model or scientific study reveals a biological basis for NAION caused by treatment with Sildenafil, that's Viagra, most of the case reports of NAION related to this drug may be an expected coincidence as Sildenafil is a top selling medication and patients who receive this drug are frequently older, vasculopathic and are already at risk for NAION." That's what they wrote, correct?
A Correct. That's what it says.
Q So in May 2006 Dr. Pomeranz, who wrote the case reports started in 2002 and wrote more case reports starting in 2005, both of which said a definite conclusion could not be established,

89

reiterates to -- again, with his co-authors in May 2006, that the case reports may be a coincidence, correct?
A That's what they're stating here.
MR. THORNBURGH: Objection.
BY MR. SLONIM:
Q And you agree, Dr. Williams, that the reports of NAION among men who have used Viagra could be a coincidence because Viagra's widely used in patients who are taking the medication are at elevated risk of developing NAION due to their underlying medical condition; is that right?
A It's possible.
MR. THORNBURGH: Objection.
BY MR. SLONIM:
Q Okay. Now, Dr. Williams, one of the things that I noticed that you referenced in your written report was an article -- actually, an editorial or a viewpoint by Dr. Hayreh; is that correct?
A Correct. And I think it's one of the exhibits, isn't it?
Q It was included --
A No. It's an exhibit, too, I brought along.
Q That was included in the collection of documents that you brought.

A Yes, of course.
Q What we'll do -- Dr. Williams, what we'll do -- Yes, you did include it. What we'll do for ease of reference, I think, is mark it separately. Yeah. That's -- That's -- Is that the 2005? Hayreh 2005?
A Yep.
Q Where did you take that from?
A That was from the compendium of documents.
Q Documents that you brought. I'm going to ask you to just put that back in the compendium so that we keep the order intact. And what we'll do is mark that -- mark that same article separately as an exhibit.
A Okay.
Q Is that okay?
(Exhibit No. 23 was marked for identification.)
BY MR. SLONIM:
Q We've marked as deposition Exhibit No. 23 a viewpoint editorial by Dr. Hayreh entitled Erectile Dysfunction Drugs and Nonarteritic Anterior Ischemic Optic Neuropathy: Is There a Cause and Effect Relationship, published in the Journal of Neuro-Ophthalmology in 2005. Do you

have that in front of you?
A Yes, I do.
Q And this is the article that you specifically reference as something you're relying on in your expert report; is that right?
A Yes.
Q Can you tell us how you came across Dr. Hayreh's article?
A Well, this was in -- When I did my Pub Med literature search, Dr. Hayreh is considered the premier expert in retinal and ocular vascular disorders due to his long and distinguished career and publications. So I saw the abstract, looked at it, looked like an objective assessment and -- and got the article and then read it.
Q Okay. Can you tell us what your understanding is of Dr. Hayreh's theory of Viagra and NAION?
A Well, his feeling is that there may be a hypotensive effect of Viagra in which the blood pressure is lowered, and when that occurs the vessels in the optic nerve head that may already be compromised due to diabetes or long-standing hypertension or smoking or other microvascular disease, those two events in -- in combination lead to a stroke or NAION.

Q In your assessment, is that a view that you share?
A Yes. Yes.
Q In other words, Dr. Hayreh's hypothesis about how Viagra might causally be linked to NAION as set forth in the document we've marked as Exhibit No. 23 is the -- is the view that you share?
A Yes. I think it's a plausible explanation.
Q Do you have any theories about how Viagra causes or could cause NAION that are different from Dr. Hayreh's?
A No.
Q Let's talk about Mr. Martin, if we can. Did I understand correctly that one of the things that you did on preparing your report was review Mr. Martin's medical records?
A Correct.
Q But if I understood correctly, you did not review Mr. Martin's deposition testimony; is that right?
A No. I did not have -- have that available to me.
Q And nor did you review the deposition testimony of any of Mr. Martin's treating physicians; is that right?
A No. Just the medical records.
Q If you -- I'm going to ask some questions about Mr. Martin's medical condition, and if you need to

refer to the medical records, by all means, do so.
A Okay. Go ahead.
Q Let's do this, also. I realize we marked your report as -- early on, but let's mark separately the report. What -- What exhibit number is that?
A Five.
Q You know what I'm going to do, we have -- when the plaintiffs' lawyers produced it to us they produced it to us without the fax transmittal sheet. So I'm going to just mark this as a separate exhibit in the way the plaintiffs' attorneys gave it to us.
A Okay.
(Exhibit No. 24 was marked for identification.)
THE WITNESS: Okay.
BY MR. SLONIM:
Q Dr. Williams, we've marked as deposition Exhibit No. 24 your report, actually in the Martin case, and then also attached is your report in the Stanley case, and also sandwiched in between is your letter to Mr. Richards about -- regarding your fees on these matters, correct?
A Yes.
Q Do you have that in front of you?

94

A Yes, I do.
Q I'm going to ask some questions about Mr. Martin. If you want to refer to your report or if you want to refer to his medical records, by all means, do so.
A Okay.
Q Mr. Martin started using Viagra in April of 1998 and he used it at the rate of one to two times per week; is that right?
A I believe that's correct, yes.
Q And Mr. Martin developed his problem with vision in April of 2002; is that right?
A Correct.
Q So in other words, between April 1998 and April of 2002, which is a period of four years, Mr. Martin was using Viagra at the rate of one to two times per week, correct?
MR. THORNBURGH: Objection.
THE WITNESS: You know, I'm not absolutely sure that every week during that period of time that he used it once or twice. I know there was some anecdotal mention as to usage, but I don't believe I saw the pharmaceutical records indicating that I could absolutely state that he took it twice per week.

95

BY MR. SLONIM:
Q If I represent to you that Mr. Martin testified at his deposition on page 127, lines 14 to 18:
"Question. After that first time you took Viagra, how often would you take it?
"Answer. Every time we had sex.
"Question. Which was about how often?
"Answer. Once or twice per week."
A Okay.
Q Is that in any way inconsistent with anything you saw in the medical records?
A It's his personal statement. I don't believe the medical records went into that level of detail as to how often he was taking it, but then again, like I said, I didn't have the deposition to review, so --
Q Based on the medical records you saw, you agree with me that Mr. Martin used Viagra many times before April 2002; is that right?
A Yes. I would agree with that.
Q And in none of those times that Mr. Martin used Viagra starting in April of 1998 and prior to April of 2002 did he report any problem in regard to Viagra and his vision; is that right?
A Correct.

96

Q If Viagra had some kind of a toxic effect on Mr. Martin's vision, how was he able to use the drug numerous times between April of 1998 and April of 2002 with no ill effect?
A Well, I think you may be using the word toxic incorrectly. Toxin is a poison that actually may destroy a cell by interfering with its -- the cell's physiologic processes. I think the mechanism we're talking about is a hypotensive process rather than a direct toxic process.
As to why it didn't happen, I suppose that his -- the pressure in the small vessels in the optic nerve head did not reach that critical low point to cause infarction of the -- of the optic nerve tissue until that point in 2002.
Q Why -- Why if the drug did something physiologically that caused the NAION event in 2002 was he able to tolerate the medication with no observed ill effect many times prior to April 2002?
MR. THORNBURGH: Objection.
THE WITNESS: Well, I think the human body in response to -- to a particular drug may have different responses depending on the day of the week or what your blood pressure's doing and

97

that sort of thing. So it is possible to take a drug and not have an ill effect until sometime later.
BY MR. SLONIM:
Q Familiar with the term challenge/rechallenge?
A Yes.
Q And are you familiar with how challenge/rechallenge relates to whether or not a drug might be causally linked to an event?
A Correct.
Q Okay. And if a drug -- One of the ways that you might consider whether a drug causes an event is to see if a person takes it, a medication, there's an ill effect; discontinues the medication, the ill effect dissipates; takes it again, the ill effect recurs, correct?
A Correct.
Q That's a challenge/rechallenge?
A Yes.
Q In this case, Mr. Martin had numerous challenges and rechallenges prior to April 2002 with no ill effects on either the challenge or the rechallenges, right?
MR. THORNBURGH: Objection.
THE WITNESS: Well, it was my opinion

98

as far as causation, I mean, you know where I stand there, that a rechallenge occurred, you know, on May 29th and he lost vision on May 30th.
BY MR. SLONIM:
Q Well, we're talking about -- we're going to get to April and May. I'm -- I'm talking about --
A You're talking about prior to April 30th?
Q I'm talking about prior to April 30th, 2002. Starting -- Starting in April 1998, April 19th, 1998, and continuing through April 30th, 2002, a period of four years, Mr. Martin had numerous challenges and rechallenges with Viagra and had no ill effects on his vision, correct?
MR. THORNBURGH: Objection.
THE WITNESS: Correct, until April 30th, 2002.
BY MR. SLONIM:
Q Okay. Now, one of the things that you expressed to me and you wrote in your report is that Mr. Martin took Viagra in temporal association before his event in April 2002; is that right?
A Correct. I think I used the term close temporal proximity.
Q And what's your understanding of what the temporal proximity was?

99

A He stated he did take the Viagra at approximately 8 p.m. the night before he noted the visual loss on April 30th and May 30th, 2002. So we're talking 12 hours.
Q Now, where did you get that information from?
A That was my conversation with Mr. Stanley by phone.
Q Let me ask you this.
A I'm sorry. Strike that. Mr. Martin by phone.
Q So that's something Mr. Martin told you when you spoke to him in November of 2008?
A Correct.
Q Okay. But this event happened in April of 2002; is that right?
A Correct.
Q Did you search Mr. Martin's medical records, his contemporaneous medical records in the April 2002 timeframe, to see whether or not there's any documentation or contemporaneous records that supports a close temporal association between the use of Viagra and the onset of the NAION?
A If you're asking me did I see that he gave the history I took it at 8 o'clock the night before my vision loss, I did not see that in there, that specific statement.

100

Q Well, let me ask you, you've got Mr. Martin's medical records in front of you. Hold up the pile to the camera.
A (Witness complies.)
Q Can you show me -- Can you show me any contemporaneous medical record that indicates that Mr. Martin used the -- used Viagra the night before his observation of NAION?
A Let me take a look here. I did see this note here from a visit to the Minneapolis VA.
Q What date?
A Let's have a look here. I see the date it was printed on, but I don't see the date of the visit. Let me see if I can find that for you here. Yeah. Looks like -- Looks like about January of 2006.
Q So that's four -- that's more than four years.
A Right.
Q My question is do you find any contemporaneous records from the 2002-2003 timeframe when Mr. Martin got his NAION that -- that supports a close temporal association between the use of Viagra and the NAION?
A Well, I do see mention in here that he did, you know, that he had a prescription for it, and I see renewals of the prescription, but I don't see

101

where he mentioned that specifically when he came in with the eye problem, if that's what you're asking.
Q Did you look at Dr. Ferrara's records and when Dr. Ferrara asked him what medication he was on and he lists a bunch of medications, he doesn't list Viagra?
A Right. I -- I didn't see Viagra in that list.
Q Did you see Dr. Nichols' records when Dr. Nichols asks him what medications he's on and he lists a bunch of medications and he doesn't list Viagra?
A Right.
MR. THORNBURGH: Objection.
THE WITNESS: Correct.
BY MR. SLONIM:
Q And did you notice -- And did you notice that a few days before he got his NAION that Mr. Martin had been placed on a new anti-hypertensive, a nitrate called Catapres?
A No, I didn't see that.
Q I think -- Can I see the last document in your stack that you -- in your collection?
A Yes.
Q No. It would be the -- It was in the -- It could have been -- It might have been on the clinical --

102

In that group of -- The last one we marked. Let's see this. Let's mark -- Let's take a look at deposition Exhibit No. 16. This is a document that you produced -- that you brought with you today, I should say; is that correct?
A Correct.
Q Take a look at the entry for -- on the first page for April 24th, 2002.
A Okay.
Q What's it say about Catapres?
A Start Catapres TTS, one patch, one per week, given four.
Q What kind of medication is Catapres?
A It's for elevated blood pressure.
Q It's a nitrate and --
A It's not a nitrate, I don't believe.
Q It's not a nitrate.
A It's an alpha blocker.
Q But in any event, it lowers the blood pressure; is that right?
A Correct. That's its intended purpose.
Q Six days before Mr. Martin was diagnosed with his NAION he was started on that anti-hypertensive; is that right?
A Correct.

103

Q Did you consider whether or not Catapres could have caused his NAION?
A Well, I thought it was unlikely because I know when he was seen in East Metro Family Practice on May 1st his blood pressure was 168 over 80. So I didn't see anything to indicate that he was getting hypotensive on -- on Catapres or the other medications he was on.
Q But you agree with me that he had just started Catapres six days before -- Catapres patch, so the medication is being continuously infused; is that right?
MR. THORNBURGH: Objection. Lack of foundation.
THE WITNESS: Correct.
BY MR. SLONIM:
Q And he just started Catapres six days before he was diagnosed with his NAION on April 30th, 2002.
MR. THORNBURGH: Objection.
THE REPORTER: I'm sorry. I didn't get your question.
MR. THORNBURGH: If we could just slow down on the answering and the new question so I can raise an objection, I'd appreciate it, so I don't have to interrupt anybody.

104

BY MR. SLONIM:
Q In any event, you -- you see that although Mr. Martin does not mention to any of his physicians contemporaneously that he was taking Viagra at or about the time of his NAION, that on April 24th, 2002, six days before he was diagnosed, he was started on a new anti-hypertensive, Catapres, correct?
A Correct.
MR. THORNBURGH: Objection.
BY MR. SLONIM:
Q Okay.
A Should I wait a couple minutes after -- before I answer?
MR. THORNBURGH: No. It's okay. I'll get it in.
THE WITNESS: Okay.
BY MR. SLONIM:
Q Did you also notice, or is it also your view that there was a close temporal association between Mr. Martin's use of Viagra and the development of NAION in his second eye? That would be the left eye.
A He had told me in our telephone conversation that he took Viagra approximately 8 p.m. the night

105

before he noted the visual loss on May 30th.
Q And you saw, though, in the medical records that that statement is unsupported and that he told his doctors contemporaneously that he -- there was a three to four-day interval between the time he last used Viagra and he noticed his vision loss, isn't that right?
MR. THORNBURGH: Objection.
THE WITNESS: You'd have to point that out to me because I did not see that statement there. Was that in the deposition or --
BY MR. SLONIM:
Q Well, did you find -- did you notice Dr. Nichols -- Did you review Dr. Nichols' medical record?
A I reviewed everything we had in here. I'd be happy to look at it if you point it out to me.
Q Well, take a look at Dr. Nichols' medical records dated May 31st, 2002. You know what, I'll mark it.
A Maybe you can find it for me.
Q I'm going to mark it as a separate exhibit so we'll have it clearly in the record.
(Exhibit No. 25 was marked for identification.)

106

BY MR. SLONIM:
Q By the way, there's no reference in any -- We've marked as deposition Exhibit No. 25 Dr. Nichols' medical records. Dr. Nichols is the neuro-ophthalmologist to whom Mr. Martin was referred for care of his NAION, correct?
A Let me see that summary there. Is Nichols the neuro-ophthalmologist, or is he just a regular ophthalmologist?
Q A regular ophthalmologist.
A Okay. I didn't think he was a neuro-ophthalmologist.
Q Thank you for the correction. In any event, do you agree with me that Dr. Nichols was caring for Mr. Martin's vision problem?
A Yes. I do agree with that. And then you had asked earlier did I see where he had told Dr. Nichols that he had taken it three to four days before?
Q Yes. Take a look, please, at the second page of Dr. Nichols' medical records. Do you see the -- Do you notice this these documents are Bates -- what we call Bates numbered? They have sequential numbering on the bottom. If you'd turn to Bates number 2, that's the second page.

107

A Um-hum.
Q Direct your attention to the right-hand side. Do you see the entry for May 31st, 2002?
A I do.
Q And these are notes of -- these are Dr. Nichols' notes of Mr. Martin's visit on April 31st, 2002; is that right?
A Yes.
Q And do you see where he describes the history, the patient's history, and he says can't see street signs three to four days?
A Yes.
Q So Mr. Martin was having problems seeing the street signs with his left eye for three to four days prior to May 31st, 2002; is that right?
A That's what it says here.
Q Did you look at the St. Paul Radiology forms?
A Bates page number?
Q Well, separate records. Those are separate medical records. I just wanted to know if you recall that.
A I don't know that I had all these records here. These questionnaires here don't look familiar.
Q These were not included in the documents that the plaintiffs' lawyers --

108

A I don't know that I've seen this -- this health history.
Q Well, let's take a look at that. Turn, please, to the page that bears Bates number 10. It's a little bit obscured because of the way the stamping is. Do you see that?
A Um-hum.
MR. THORNBURGH: Well -- I'm sorry. Page 10?
MR. SLONIM: Bates 10.
THE WITNESS: Let me compare that to what I had here, see if it looks different.
MR. THORNBURGH: That should just be a copy of what you have.
THE WITNESS: Okay. I've got it. I've got it.
BY MR. SLONIM:
Q Okay. And --
A Just didn't look the same. This copy's not as --
Q This --
A -- clear.
Q This is a questionnaire where Mr. Martin is asked to report to the St. Paul Eye Clinic, to Dr. Nichols, what medications he was taking when he was being treated for his NAION on May --

109

May 1st; is that right?
A Yes.
Q And do you see the medication he lists is Catapres; is that right?
A Yes.
Q Doesn't list Viagra, does he?
A No, he doesn't.
Q And in fact, if you search Dr. Nichols' medical records and start at page 1 and go to the end, you don't find any reference of Viagra, do you?
A No, I don't.
Q So the question that we were working on was whether or not there was any temporal -- any contemporaneous records of a temporal association between the use of Viagra the night before the onset of the NAION, and we had not found any for the April 30th, 2002 event, and now we're looking for the May 31st event. And what we've found so far, based on Dr. Nichols' records, is that although the -- that the NAION -- that the problem with the vision was three to four days prior to May 31st, 2002, according to Dr. Nichols' records; is that right?
A Correct.
Q Okay. Let's take a look at the radiology records

and see if that sheds some light on this.
(Exhibit No. 26 was marked for identification.)
BY MR. SLONIM:
Q We've marked as deposition Exhibit No. 26 Mr. Martin's radiology records taken at the St. Paul Radiology Center, and would you turn, please, to page 4. These, again, have Bates numbers. Do you notice that there's a patient questionnaire -- patient history questionnaire here?
A Yes, I see it.
Q Okay. And do you see that with respect to the left eye, Mr. Martin -- Mr. Martin was asked, in the middle of this questionnaire, how long have you had these symptoms, and he lists -- he writes that, with respect to his left eye, that the onset was May 27th or May 28th; is that right?
A That's what's written there, yes.
Q And that's perfectly consistent with Dr. Nichols' records that said that he began having problems with his left eye three or four days prior to May 31st, 2002; is that right?
MR. THORNBURGH: Objection.
THE WITNESS: I'd say two or three. I

wouldn't say three or four.
BY MR. SLONIM:
Q Okay. And looking at the entire body of Mr. Martin's medical records that you've reviewed, do you find a -- a single record that documents a use of Viagra in the 24-hour period prior to the onset of decreased vision in the left eye on May 31st, 2002?
A Not outside what he told me in our phone conversation.
Q Okay. The videographer tells me that we need to change the tape. I think that will just take a minute.
VIDEOGRAPHER: This ends tape number two of the video deposition of John M. Williams, Sr., M.D., on January 13, 2009. The time, 11:36 a.m.
(Recess taken.)
(Exhibit No. 27 was marked for identification.)
VIDEOGRAPHER: This is the beginning of tape number three of the video deposition of John M. Williams, Sr., M.D., on January 13, 2009. The time, 11:38 a.m.
BY MR. SLONIM:

Q We've marked as deposition Exhibit No. 27 medical records from Dr. McEllistrem, who was Mr. Martin's urologist. Turn, please, to Bates number 31. Direct your attention to the top -- the entry at the top of the page. Do you see that Mr. Martin was seen by Dr. McEllistrem on October 29th, 2002?
A Yes.
Q That's about four months after the onset of Mr. Martin's vision problem with his right eye and about three months after the vision problem with his left eye, correct?
A Correct.
Q And do you see the subheading that says P-H?
A Yes.
Q And do you understand that that is the abbreviation for patient history?
MR. THORNBURGH: Objection.
THE WITNESS: That's not a standard abbreviation. I would guess it was probably past history.
BY MR. SLONIM:
Q Past history?
A Um-hum.
Q Okay. In any event, it's under -- it's under the S subheading. That stands for symptoms?

A Yes.
Q That's standard nomenclature for symptoms?
A No. Well, S stands for subjective.
Q Subjective.
A Yes.
Q And then there's a Section P-H, and you interpret that as to refer to past history?
A Yes.
Q Okay. And would you read that out loud?
A Says patient has new medication for HTN, hypertension, which caused him some dizziness on standing up from squatting position and he suddenly developed difficulty with vision and was felt to have vascular occlusion to optic nerves. He has converted to Accupril at present time and this does not cause vertigo, as noted with other medication.
Q In this note, according to the past history, the attribution for the vision problem that Mr. Martin experienced was his new medication for hypertension; is that right?
MR. THORNBURGH: Objection.
THE WITNESS: It looks like the urologist, Dr. McEllistrem, has -- has included that in his note.

114

BY MR. SLONIM:
Q And there's no reference to the patient having used Viagra in association with NAION, is there?
A No mention of Viagra there.
Q Okay. Now, let's take a look at Dr. Ferrara's medical records. Have we marked those previously? I don't think so.
(Exhibit No. 28 was marked for identification.)
BY MR. SLONIM:
Q Is that 28?
A Got it.
Q We've marked as deposition Exhibit No. 28 records from Dr. Ferrara for Mr. Martin, and please direct your attention to the bottom of the page, the entry dated October 6th, 2004. Do you see that?
A I do.
Q Okay. And do you see that Dr. Ferrara writes that he, meaning Mr. Martin, still has erectile dysfunction, but relates to me that he does not feel that the Viagra was given at the time he went blind?
A Yes. I recall reading that, and I also recall that Mr. -- in other document, that Mr. Martin had disputed that -- that -- that entry.

115

Q If this record is correct, would that change your opinion as to the link in Mr. Martin's case between Viagra and NAION?
A Well, it says he does not feel that the Viagra was given at the time he went blind. Is he referring to the morning when he woke up? Is he referring to he didn't have it the night before, two nights before? I guess I'd need some more detail.
If he said the last time he had it was a week before, I think it would be difficult to draw a connection. If he said, you know, it was 36 hours, 48 hours prior to developing the loss of vision, then it's possible it could play a role.
Q What's your basis for saying that a medication taken -- that Viagra taken more than 20 hours -- 24 hours before the onset of NAION could play any role in --
A Some of the clinical reports have indicated that people taking it, I believe, as long as 36 to 40 hours have -- have had episodes of NAION associated with that.
Q Have you looked at the pharmacokinetics of the drug to ascertain how much of the active ingredient of Viagra remains in the bloodstream after 24 hours?

116

A No, I have not seen that.
Q Have you looked at the Viagra label?
A Yes, I have.
Q Does the Viagra label provide any information about the rate at which Viagra is metabolized and how much remains in the bloodstream at various points in time --
A I believe it does. I don't have it committed to memory, but I also understand that that's variable depending on the patient, how quickly the liver and kidneys clear a particular drug. So everyone's different in terms of the length of time that metabolites may remain in their system.
Q You agree with me that the pharmacokinetic studies of the metabolism of Viagra show that there is no active ingredient left in the bloodstream after 24 hours; is that right?
MR. THORNBURGH: Objection.
THE WITNESS: I would have to see that to -- I'm not a pharmacologist, so let me take a look at it if you got something there.
(Exhibit No. 29 was marked for identification.)
BY MR. SLONIM:
Q We've marked as deposition Exhibit No. 25, the --

117

29, the label for Viagra. Please turn to page 2, Figure 1, at the bottom of the page. Do you see that?
A Yes, I do.
Q That shows you the mean, meaning average, Sildenafil and Viagra plasma concentrations in healthy male volunteers starting at time zero, which is time of ingestion, going through 24 hours. Do you see that?
A Yes.
Q And do you see that at the 24-hour mark that the amount of Viagra left in the bloodstream is zero?
A No, I do not see that.
Q What do you see?
A I see that there's still some Viagra left because if it was zero that line would meet the X axis, which it doesn't.
Q Okay.
A The medication half-life, what that means is that half the medication is gone at a certain period of time, and as -- as that half is halved is halved, you're not reaching zero by 24 hours.
Q Do you notice that at the zero -- Do you notice that at the zero mark, zero hours from the time of ingestion, that the zero is above some -- slightly

above the X axis so that they can show where the line is? Do you see that on the left-hand side of the curve?

A Yes.

Q And do you see that on the right-hand side of the curve at 24 hours that the zero -- that the mark is at the same height as the time of ingestion, the zero mark?

MR. THORNBURGH: Objection.

THE WITNESS: I see where the mark is, but I don't agree that there would be no Viagra in the bloodstream at 24 hours.

BY MR. SLONIM:

Q Okay.

A I think it would be a small amount, but there would still be some there.

Q When you considered possible causes of Mr. Martin's NAION, did you consider anything else other than Viagra?

A Well, as mentioned before, there are certain clinical conditions that predispose one to developing nonarteritic ischemic optic neuropathy, whether that be diabetes or hypertension, microvascular disease, hypotension, collagen vascular disease, smoking, those sorts of things.

So yes, those -- those things were considered.

Q Based on Mr. Martin's age and his vasculopathic risk factors, his hypertension, his hyperlipidemia and his diabetes, could those have accounted for his NAION?

A He would be at risk for that -- increased risk for that given those diagnoses, yes.

Q And so he could have just developed NAION as a consequence of having the underlying risk factors for the condition; is that right?

A That's possible, correct.

Q And are you familiar with spontaneous NAION?

A Yes.

Q Some people just wake up and have NAION, right?

A Yes, but I think if you investigate further and rule out other possible causes of loss of vision due to optic nerve abnormalities, some things such as optic neuritis may potentially be present and unrecognized. And there's also the arteritic type of ischemic optic neuropathy, which we haven't really talked about much.

Q But no one thinks he has arteritic --

A No. He has a normal sedimentation rate and I believe he had a temporal artery biopsy, and that was ruled out.

Q No one has ever suggested in this case that it was an arteritic patho --

A No. I think that was in a differential diagnosis, though, so that was worked up and ruled out.

Q Okay. But let's focus on the nonarteritic ischemic optic neuropathy. Given the fact that this is the most common form of optic neuropathy that occurs in people over age 50, is there any way you could rule out spontaneous NAION?

A No.

Q If someone came into your office with the precise set of medical conditions that Mr. Martin had; same age, same medical history, but no history of using Viagra, with NAION, what would you say the cause of the NAION was?

A As we talked about before, the fact that as the blood vessels are narrowed, the supply of blood to the optic nerve may be interrupted. And the thought is that perhaps when a person is sleeping at night and their blood pressure normally lowers, if that profusion pressure head is not enough to nourish the optic nerve tissue, then it infarcts and dies.

Q And that could have happened to a person in Mr. Martin's medical condition and age even if he

hadn't taken Viagra?

A It's possible, yes, yes.

Q And you noticed that Mr. Martin also was taking medications for hypertension at the time he experienced NAION and, in fact, had just been changed a few days before to a new anti-hypertensive, Catapres; is that right?

A Yes.

Q Can you rule out Catapres as possibly causing Mr. Martin's NAION?

A Well, as we saw in the clinical notes and I mentioned earlier, when he came in on the 30th his blood pressure was actually quite high. And so it didn't appear that the Catapres was having much effect on it.

Q In your report -- I wanted to go to the impairment point.

A Okay.

Q In your report you state that Mr. Martin's visual impairment places him in the severe vision loss category when compared to the International Ranges of Vision Loss scale; is that right?

A Yes, I did state that.

Q Can you tell us what the International Ranges of Vision Loss scale is?

122

A Yes. I'm referencing the Guides to Impairment of -- or Evaluation of Permanent Impairment, 6th Edition, specifically looking at page 307, this chart here. I found his functional acuity score at 35. Can you see that?
Q Yes.
A Which when looking that this column corresponds to Class 3A, AMA class of impairment of the visual system. The corresponding International Range of Vision Loss based on the ICD-IX criteria, Class 3A corresponds to severe vision loss.
If we look further, the World Health Organization ranges for international statistics would classify that in the low vision range. We drop down further in looking at estimated ability to perform activities of daily living. Those are things such as feeding one's self, washing one's self, putting on your clothes, ambulating. We find that in severe vision loss, Class 3A, that he would be in the restricted category, restricted performance, indicating that his performance would be slower than a normal person even with aids. Aids meaning visual aids; magnifiers, glasses, CCTV cameras, and then would there be needs and means for visual rehabilitation. At that level it

123

is possible that there -- some vision enhancement aids could help him; magnification, increased lighting, increased contrast, those sorts of things.
Q Are there categories of visual impairment that are worse than severe?
A Yes.
Q And what are those categories?
A Profound and near or -- near total or total visual loss.
Q And based on the international scale and your assessment, it was your opinion that Mr. Martin's visual impairment is not profound; is that right?
A Correct. According to what we've just mentioned, it doesn't fall in the profound category.
Q And you would also agree that his visual impairment is not near blindness; is that right?
A As defined, it's not near or total vision loss.
Q Okay.
A Now, there are several different ways, I mean, you know, when we throw around the term legal blindness, yes, he would fall under that category, but if we're talking about the World Health Organization or the other criteria, I've discussed those.

124

Q In terms of the international criteria for assessing the magnitude of vision loss, there are three categories of vision loss that are greater than -- than Mr. Martin's vision loss is.
A Well, actually two. They lump -- The profound vision loss is one category, and then total or near total vision loss is the worst.
Q Okay. And in making your assessment of Mr. Martin's visual impairment did you conduct any type of a physical examination or --
A No. I did not do a hands-on exam. This was done by -- strictly by review of the records at hand.
Q Let's turn to Mr. Stanley. Mr. Stanley was diagnosed with NAION in September of 2000; is that right?
A Correct.
Q And did you note in the records that you had reviewed that Mr. Stanley had been using Viagra once every week -- once or twice every -- once every week for about two to five months without any prior affect on his vision?
A Right. I believe it was more towards the five-month time period rather than two, but -- yeah, I wouldn't dispute that because -- Yeah. Here I go on further and say he got his first six

125

samples of Viagra on March 3rd, 2000. So, you know, that's almost six months.
Q So in any event, based on the records that you've reviewed, Mr. Stanley had used Viagra, had been challenged with Viagra and rechallenged with Viagra a number of times over a six-month period prior to his NAION, and during those prior uses of Viagra not --
A Correct. He had given --
MR. THORNBURGH: Objection. Sorry.
THE WITNESS: Can I go ahead?
MR. THORNBURGH: Yeah.
THE WITNESS: -- six samples on March 3rd, 18 prescribed on April 18th, and then 18 on December 8th of 2000.
BY MR. SLONIM:
Q How do you account for the fact that Mr. Stanley was able to use Viagra repeatedly prior to developing the NAION without reporting any ill effect on his vision?
MR. THORNBURGH: Objection.
THE WITNESS: Once again, the same explanation. You can take a drug. It may not have an ill effect until sometime after starting it. As to why it happened that particular day and

126

it didn't happen the day before or two weeks before, I'm not absolutely certain.
BY MR. SLONIM:
Q Or it could be a coincidence that at the time it happened you just happened to have taken Viagra a few days before, isn't that right?
MR. THORNBURGH: Objection.
THE WITNESS: That's a possibility, but I think in this case we did have documentation that he told his physician he had used it one to two days prior to loss of vision in his eye.
BY MR. SLONIM:
Q And so in this case you found in the -- in the medical records a notation that Mr. Stanley had reported that he had used Viagra one to two days before the loss of vision?
A Correct.
Q And given what we saw about how quickly Viagra washes out of the bloodstream --
A Yes.
Q -- if it was more than a 24-hour -- Mr. Stanley reported one to two days between the time he used Viagra and the onset of his NAION. Given the half-life of Viagra and the rate at which it washes out of the bloodstream, is it your opinion

127

that Viagra still could have caused the NAION?
MR. THORNBURGH: Objection.
THE WITNESS: I would say most likely within the first 24 hours, but once again, anecdotal reports, I believe, patients as far as 36 hours out have -- have been reported in the literature.
BY MR. SLONIM:
Q Those patients reported in the literature are case reports without any control group; is that right?
A Correct.
Q That's just somebody saying gee, a patient took Viagra 36 hours ago and -- and when they came into my office I diagnosed NAION, right?
A Correct.
Q There may or may not be any causation in those case reports; is that right?
MR. THORNBURGH: Objection.
THE WITNESS: Well, I wouldn't lump the case reports together as a single entity, but certainly I think some of the cases have stronger documentation than others in terms of whether causation was there.
BY MR. SLONIM:
Q Did you notice in Dr. -- in Dr. Bhavsar's notes

128

any indication that Mr. Stanley had taken Viagra in close temporal association with his NAION?
A You want me to use an exhibit, or --
Q Let me -- Let me -- In the interest of time, let me just mark an exhibit.
A May I take a peek out in hallway just to see if we're --
VIDEOGRAPHER: We are going off the record at 11:58 a.m.
(Exhibit No. 30 was marked for identification.)
(Discussion off the record.)
VIDEOGRAPHER: We are back on the record at 11:59 a.m.
BY MR. SLONIM:
Q We've marked as deposition Exhibit No. 30 a record from Dr. Bhavsar of Mr. Stanley. These are dated September 5th, 2000. Do you have that in front of you?
A Yes, I do.
Q Do you see that Dr. Bhavsar notes various medications, but does not indicate Viagra?
A What I see, it looks to me like he has written same and then he's put Cardizem added. So I would probably refer to an earlier note where he would

129

have had a complete listing of all his medications. Generally, that's convention. If you've seen a patient more than once and they come back and medicines haven't changed, you just write same.
Q We'll mark as a deposition exhibit Dr. Bhavsar's full set of records. I'm not sure I have Dr. Bhavsar's full records with me. Can you see if, in your records, if you can find any indication that he told Dr. Bhavsar -- if there's any mention in Dr. Bhavsar's records of Viagra?
A Well, I'm looking at a note dated June 7, 2000, and it says medication changes, it says not on Coumadin yet. That's what he says there.
Q No reference to Viagra?
A I don't see that there. I do see -- There's a letter signed by Dr. Bhavsar, March 14th, 2001, thanking Mr. Stanley for a letter regarding reported association of Viagra with anterior ischemic optic neuropathy.
Q I'm sorry. When is that?
A March 14th, 2001. Says perhaps you may wish to consider discontinuing Viagra given these findings that you've discovered.
Q But that's not a contemporaneous record indicating

130

that he had used Viagra --
A No, no.
Q -- in the close proximity to the onset of NAION.
A I don't see Viagra listed in there. However, there was a -- Oh, I think we had the pharmaceutical records of the Viagra being dispensed. Looked like he got some on April 18th of 2000 and December 8th of 2000, hundred milligram tablets.
Q But again, no --
A But again, no --
Q -- no indication that he took it in close proximity to the onset?
A Correct. Correct.
Q Dr. Bhavsar referred Mr. Stanley to a neuro-ophthalmologist, Dr. Weingarden; is that right?
A Right.
Q Let's mark as deposition Exhibit No. 31 records of that referral.
(Exhibit No. 31 was marked for identification.)
THE WITNESS: Yeah. This is Bhavsar's letter to Sheridan, who -- I'm not sure if -- I think Sheridan must be Stanley's primary

131

ophthalmologist. Bhavsar is the retinal surgeon, and then Bhavsar is recommending follow-up with Weingarden.
BY MR. SLONIM:
Q Okay.
A This isn't Weingarden.
Q This is not Weingarden.
A No.
Q No reference of any connection between Viagra and Mr. Stanley's NAION?
A Not in this letter.
Q Okay. Did you notice that Dr. Sheridan and Dr. Weingarden are part of the same practice group?
A They're in a -- a big group there in St. Paul. Yes, I am aware of that.
Q Let's mark as deposition Exhibit No. 32 records from Dr. Pelletier and Dr. Sheridan, that same group, relating to Mr. Stanley.
(Exhibit No. 32 was marked for identification.)
THE WITNESS: Now, who's Pelletier? Is he one of Sheridan's partners?
BY MR. SLONIM:
Q Yeah. These were records that were produced to us

132

from the whole group.
A Okay.
Q By the whole group. And take a look at the lower left-hand -- the entry for the lower left-hand corner dated September 7.
A Um-hum.
Q Do you see that there are various medications that Mr. Stanley reported to Dr. Weingarden?
A Yes. Looks like he misspelled diuretics. Sacalol, Dysoxa --
Q But the --
A -- Coumadin.
Q Do you see any -- any reference to Viagra?
A I'm trying to read what that -- Can't read all of it, but I don't see anything that looks like Viagra listed.
Q Can you find a single record relating to Mr. Stanley in the year 2000 which suggests that Mr. Stanley took Viagra shortly before the onset of his NAION?
A In the year 2000?
Q Yes.
A No. I have not seen that. Only after the fact, and then in his conversation with myself.
Q Did Mr. Stanley -- When you talked to Mr. Stanley

133

did he tell you that he had done research on the Internet after he developed his NAION to try to figure out what may have caused it?
MR. THORNBURGH: Objection.
THE WITNESS: Yes. I believe he did -- had done some -- some reading about it.
BY MR. SLONIM:
Q On the Internet?
A I believe it was on the Internet, yes.
Q And do you know whether Mr. Stanley reported to his physicians that he had taken Viagra in close association with his NAION only after he had done his Internet research?
MR. THORNBURGH: Objection.
THE WITNESS: I don't know that -- that specifically, but I do know that there was that letter there where he did contact Dr. Bhavsar and ask his opinion regarding some research he had done, but that was after the fact. He didn't -- I don't believe he specifically mentioned Internet research on that.
BY MR. SLONIM:
Q But is it your understanding that -- that Mr. Stanley only mentioned Viagra in close temporal association with NAION after he had gone

on the Internet -- after he had done research on -- to possible causes?

MR. THORNBURGH: Objection.

THE WITNESS: Yes.

BY MR. SLONIM:

Q In view of Mr. Stanley's age, his hypertension, his atrial flutter and fibrillation, which we haven't talked about but which you saw in the medical records, was Mr. Stanley at an elevated risk for developing NAION?

MR. THORNBURGH: Objection.

THE WITNESS: Yes.

BY MR. SLONIM:

Q Can you rule out the possibility that Mr. Stanley's NAION was attributable to his age and his cardiovascular risk factors?

A No.

MR. THORNBURGH: Objection.

BY MR. SLONIM:

Q One of the records indicates -- several of the records indicate that Mr. Stanley was started on a cardiac medication called Sotalol shortly before the onset of his NAION. Did you see those records?

A Which doctor started him on that? I don't know if

I saw that. I remember seeing Sotalol mentioned, but not at the time at which it was prescribed.

Q I think about -- Do we have Bhavsar 2? Bhavsar 2. Take a look at deposition Exhibit 30. I don't know if this will give us a start date. Yeah. Take a look -- Well, take a look at deposition Exhibit No. 30. That's the Bhavsar 2. I think it's in front of you.

A I'm looking at 32 here. Okay. Let's see. Where are you? Those are the articles.

Q Well, let me give --

A Can I look at yours?

Q Let me give you my copy.

A This is 30.

Q 30. That's deposition Exhibit No. 30. It's Bhavsar 2. Is that --

A Says Cardizem added, changed -- Cardizem added, changed to Sotalol. Not sure what that means.

MR. THORNBURGH: I'm sorry. Where are you guys looking at?

THE WITNESS: Here.

BY MR. SLONIM:

Q Okay. So you're not able to tell from these -- Are you able to tell from this record when he started Sotalol in relation to the NAION?

A No.

Q Okay. Well, let me ask it in the hypothetical. If he had started Sotalol in -- within the several weeks before his NAION, would you be able to rule out Sotalol as a possible cause of the NAION?

A You know, if it's possible that it had an affect of lowering the blood pressure, that -- it could have contributed.

Q Do you know what Sotalol is? It's an anti-arrhythmic.

A Yes. I believe a beta blocker. It's in the beta blocker family. And beta blockers can decrease contractility and the force with which blood is pumped, which may have a result in decrease in blood pressure.

Q Let's turn to the impairment with respect to Mr. Stanley.

A Okay.

Q In your report you state that Mr. Stanley's visual impairment places him in the moderate vision loss category when compared to the International Ranges of Vision Loss scale; is that right?

A Yes. That's what I state in here.

Q And can you tell us how you reached that assessment?

A Well, in his case, and we're looking at the same table, 1210, his functional vision score was higher than Mr. Martin's. His was 70 because he did not have the bilateral vision loss. So when we look at 70 here, we're looking at AMA Class 2 impairment.

Coming down here to the International Ranges of Vision Loss, moderate category here, all on the same column. World Health Organization would consider that still low vision, and there would be some need for visual aids, and vision enhancement aids such as magnification, increased lighting or contrast would potentially benefit someone such as this.

Q And are there categories of visual impairment that are more severe than moderate?

A Yes. There's severe, profound and then total or near total vision loss. Three -- Three categories worse.

Q And based on the international scale and your assessment, Mr. Stanley did not suffer any of those more significant visual impairments, the severe or the profound --

A Or total or near total, no.

Q Right.

A Once again, just to clarify, we're looking at, you know, function of both eyes together.
Q Yes. By the way, do you know if Mr. Stanley is able to drive?
A Let's see here. He does still hold a driver's license, but he did state to me that his wife doesn't like him to drive, and they're going somewhere so she'll drive and have him be the passenger, but he does still hold a driver's license.
Q And he is able to drive?
A Yes. Martin isn't.
Q In your report you noted that Mr. Stanley has difficulty using a computer.
A Correct.
Q Is that something he told you?
A Yes.
Q Would it affect your assessment if you knew that Mr. Stanley spent a lot of time using a computer?
MR. THORNBURGH: Objection.
THE WITNESS: Well, I have a brother-in-law who's legally blind who uses a computer quite a bit, but he has a talking computer. So just because you have difficulty doesn't mean that you might not use it for, you

know, a considerable amount of time, and it also might mean that it may take you longer to do what you formerly did in a shorter period of time.
BY MR. SLONIM:
Q In your report you noted that Mr. Stanley's problems with ambulation, walking, are not due wholly to his vision loss and that they're partially attributable to problems with his leg. Is that something that you took into account when you assessed his degree of impairment?
A Yes.
Q And can you explain how you -- how you took into account the fact that some of the ambulation problem was not attributable to vision?
A Well, the impairment ratings here are strictly based on the person's visual field and visual acuity scores. So it doesn't take into account other disabilities a person may have.
There is the ability to give additional percentage, up to 10 percent, for things that don't necessarily fit in this category; things such as disfigurement, eye irritation, pain, things such as that. I felt in his particular case that a five-point reduction in his functional visual score rather than a 10-point

reduction was -- was in order given the fact that he did have a loss of useful depth perception, or stereopsis is the medical term.
Q So in other words, you -- you tried -- when you made the assessment, what you're telling us is that you tried to account appropriately for the fact that some of the difficulty in walking was not attributable to the vision?
A Correct. Correct. And given the fact that you could rate -- give an additional rating up to 10 percent as opposed to the five percent that I gave.
Q And in making your assessment about Mr. Stanley's visual impairment did you conduct any type of physical examination of him?
A No. This was purely based on a review of the records.
MR. SLONIM: Let me just take a minute, consult with my colleague and see if we have any other questions.
VIDEOGRAPHER: We are going off the record at 12:16 p.m.
(Recess taken.)
VIDEOGRAPHER: We are back on the record at 12:21 p.m.

MR. SLONIM: Dan, I pass the witness.
MR. THORNBURGH: Thank you.
EXAMINATION
BY MR. THORNBURGH:
Q Dr. Williams, I just have a couple follow-up questions. Doctor, you're familiar with a differential diagnosis?
A Correct.
MR. SLONIM: Objection.
BY MR. THORNBURGH:
Q And did you -- Is that one of the bases of your opinion as it relates to both plaintiffs' condition of NAION?
A Yes.
Q Okay. And can you explain to us what a differential diagnosis is?
A Well, a differential diagnosis is a list of possible diagnoses that could cause a clinical syndrome or clinical finding. You can sort of think of it as a top 10 list, or sometimes less than 10 or more than 10. Likely types of things that could be responsible for a -- a clinical problem.
For example, a person presents to the clinic. They've got a cough that's productive.

142

You could think it's a viral upper respiratory infection. Could be pneumonia. It might be tuberculosis. Could possibly be an anthrax infection, but that would be very rare, but those things could be potentially included in a differential diagnosis.

Q And you used a differential diagnosis in reaching your conclusion with respect to Mr. Stanley?

A Correct. And I think -- in this particular case I don't think there's any dispute on either side that he has nonarteritic ischemic optic neuropathy. I think the dispute lies in, you know, what contributed to it or what caused it. And certainly there are, as we've talked about before, many predisposing things that can increase a person's risk of developing a nonarteritic ischemic optic neuropathy.

Q And did you rule out the other risk factors and determined that Viagra was the cause?

A In this particular case, based on a review of the records, review of the literature, and then a personal conversation in which both Mr. Martin and Stanley did account to me a close temporal relationship between taking Viagra and having the visual symptoms, I felt that, to a reasonable

143

degree of medical probability, that the Viagra played a role.

Q I understand -- I appreciate counsel's review of the records, but in your -- in your -- do you treat anybody currently or have you treated anybody the past that has been prescribed Viagra?

A I certainly see patients all the time in my practice who are taking Viagra or similar medications.

Q And what is Viagra used for?

A It's used for erectile deficiency, or ED.

Q And the patients that you treat, are they often a little bit embarrassed about their -- their condition of erectile dysfunction?

A Yes, to the point that sometimes it's not even mentioned in the clinical encounter and I might see it in the electronic medical record and say oh, did you forget to mention that to me and -- Yeah, it's an embarrassing thing, I think.

Q So often times patients may not tell you that they -- they were on Viagra?

A I think that's a fair statement.

Q All right. And in 2002 when Mr. Stanley was diagnosed with NAION -- I believe that was the time, right?

144

MR. SLONIM: No.

BY MR. THORNBURGH:

Q Sorry. May 31st, 2002?

MR. SLONIM: No.

THE WITNESS: That's Martin. 2000 is Stanley.

MR. THORNBURGH: Okay. September of 2000?

MR. SLONIM: Yes.

THE WITNESS: Yeah.

BY MR. THORNBURGH:

Q In September of 2000 was there any literature that linked Viagra to NAION?

A I believe the first clinical report --

Q Let me rephrase. Was there any -- Was it well known to the general public that Viagra caused blindness?

A No.

MR. SLONIM: Objection.

BY MR. THORNBURGH:

Q Had it been known, Mr. Stanley perhaps could have linked it and told his doctor that he had been taking Viagra at the time of his blindness.

MR. SLONIM: Objection.

THE WITNESS: That's possible, yes.

145

BY MR. THORNBURGH:

Q And same for Mr. Martin. In 2002 when he was diagnosed with NAION, was it widely known to the general public that Viagra caused blindness?

MR. SLONIM: Objection.

THE WITNESS: At that time it was -- a handful of cases had been reported. So not widely --

BY MR. THORNBURGH:

Q The FDA wasn't -- wasn't telling -- wasn't sending out alerts to consumers?

A Not at that point.

Q But -- So the only way that Mr. Stanley or Mr. Martin would have known that Viagra caused NAION is if Pfizer had warned them about it.

MR. SLONIM: Objection.

THE WITNESS: Or if they'd heard about it through the mainstream media. That's typically where patients hear about problems with drugs.

BY MR. THORNBURGH:

Q But if the mainstream media wasn't reporting it in 2000 or 2002, the only way Martin or Stanley would have found out about the problem is through Pfizer.

MR. SLONIM: Objection.

146

THE WITNESS: That would have been the source you would expect to have put the information out.
BY MR. THORNBURGH:
Q If Pfizer had clinical studies in 2002, wouldn't you expect them -- or earlier, wouldn't you expect them to warn consumers about the risk?
A If there had been reported cases in the -- in the Phase I or Phase II or Phase III clinical trials, it's incumbent upon them to report that to the FDA.
Q And the FDA hasn't been called as an expert or witness in this legal proceeding to testify on the legal causation of Viagra and its association to NAION, have they?
MR. SLONIM: Objection.
THE WITNESS: Not to my knowledge.
BY MR. THORNBURGH:
Q Does Sildenafil cause NAION?
A In my opinion, in these particular two -- two particular cases, to a reasonable degree of medical probability, it was a factor in the development of nonarteritic ischemic optic neuropathy.
Q Do they warn about NAION on their label?

147

A There is a -- a warning currently that if a person has some of these conditions we've previously talked about, that they should discuss it with their doctor because there have been -- there is potential risk.
Q Does Zocor cause NAION?
A Not to my knowledge.
Q Any of the other medications that you reviewed from either the Stanley records or the Martin records, have any of those other medical prescriptions been linked to NAION?
A Not to my knowledge.
Q So the only other drug that Mr. Stanley was taking in 2000 when he was diagnosed with NAION that had been associated or has been associated with NAION is Viagra, correct?
A Correct.
Q And you looked at these drugs and the temporal relationship between his use and his injury to reach the conclusion that Mr. Stanley's injury was caused by Viagra and not by anything else, correct?
MR. SLONIM: Objection.
THE WITNESS: Well, as I said, I believe it was a contributing factor to it. He

148

did have other risk factors, but given the temporal -- at least as reported to me by both patients, the temporal association between taking it and developing the problem in a short period of time and looking at similar cases reported in the literature, I felt that there was causation, yes.
BY MR. THORNBURGH:
Q And you were able to rule out these beta blocker drugs as a potential cause because you looked at the records and you noted that there was no hypo -- hypotension?
A Correct. As I referred to in that one note, I believe the blood pressure while on Catapres 159 systolic, which normal should be about 120. So that was almost 40 points higher than normal. I think we got a group forming out here.
Q Okay. One question then. In Martin, he was diagnosed with NAION on two different occasions; one in his left eye and one in his right eye?
A Yes.
Q And each time he had stated to you and during his deposition -- or assume with me during his deposition, that he was on Viagra at the time -- or within just 24 hours or less of his injury, correct?

149

A That's what he told me.
Q And that's what we call challenge/rechallenge?
A In this particular case you could use that terminology.
Q In -- In the articles that were referenced previously, I believe in Erectile Dysfunction Drug and Nonarteritic Anterior Ischemic Optic Neuropathy, Is There a Cause and Effect Relationship, it's been marked as defendant's Exhibit No. --
MR. SLONIM: Is it Hayreh's article?
THE WITNESS: Yes. 23. Got it.
BY MR. THORNBURGH:
Q 23? And can you read the last sentence in -- on the right-hand side of the -- of the --
A Yes. It says quote, "Despite a lack of mechanism of action, the strong rechallenge data, Reference 9, suggests the drug effect may be significant. And Reference 9 is Bollinger, Lee article, Recurrent Visual Field Defect in Ischemic Optic Neuropathy Associated with Tadalafil Rechallenge, Archives Ophthalmology 2005.
Q And does Dr. Hayreh reference Pomeranz's articles there? Or Egan and -- I'm sorry, Egan and Fraunfelder?

A Yeah. He references Egan, Egan and Pomeranz, Pomeranz, Pomeranz, references himself a lot, and -- Let's see. I don't -- I'm looking for Fraunfelder here. No, I didn't see Fraunfelder.
Q I think in the -- in the paragraph itself he's referencing the Archives of Ophthalmology?
A Oh, okay. Egan and Fraunfelder, 11, yes. Okay.
Q Saying that the connection between Sildenafil --
A Yeah, Reference 11.
Q -- use and development of NAION does not meet World Health Organization's criteria for cause and effect relationship, but go on to state that despite a lack of mechanism of action, a strong rechallenge data suggests the drug's effect may be significant. Does it state that?
A Yes.
Q Did I read that correctly?
A Yes. We really have to finish it up.
Q Okay. The other articles that -- that you have read haven't said that there is no cause and effect relationship, have they? In fact, they -- they have associated NAION to the use of --
A Right. There's an association --
MR. SLONIM: Objection. Let me just get it on. Objection.

BY MR. THORNBURGH:
Q You can answer.
A The articles I've looked at have -- have said that there is a -- no one has proved a pure cause and effect relationship, but we have to look at where the bar is set for proving cause and effect in the medical world and suggesting a cause and effect to a reasonable degree of medical certainty. Those two percentages are not the same. So I think we may be talking about apples and oranges here.
I think it's a higher -- much higher bar to prove cause and effect, whether it's a toxin or a medication, in the medical realm when looking at an individual drug, as opposed to more likely than not, 51 percent or greater, that sort of thing.
MR. THORNBURGH: Okay. All right. Thank you. No further questions.
EXAMINATION
BY MR. SLONIM:
Q Just one other question. You were asked a question about the label. Would you turn to Exhibit No. 29, which is the label. Turn, please, to page 23.
A Okay.

Q And you were asked about the warning that was given in connection with Viagra and -- and NAION. Do you recall those questions?
A Yes.
Q Okay. And do you see that -- that the warning itself states, last sentence of the warning, it is not possible to determine whether these events, meaning NAION, are related directly to the use of PDE-5 inhibitors, to the patients' underlying vascular risk factors, or anatomical defects, to a combination of these factors or to other factors; is that right?
A That's what it says there.
Q So in other words, the warning says although there have been reports of NAION among Viagra users, whether or not the drug is the cause is not known at this time; is that right?
A Right. Then it refers to precautions information for patients for further detail.
Q Correct.
MR. SLONIM: I have no further questions.
EXAMINATION
BY MR. THORNBURGH:
Q Just one more on that. And that's Pfizer's label?

A Well, this is -- looks like the label, but --
Q Look at the last page.
A -- I don't see it labeled Pfizer.
Q Look at the last page, page 25.
A Oh, yeah. Says Pfizer Labs. Revised August 2008.
MR. THORNBURGH: Okay. That's all.
MR. SLONIM: We're done.
VIDEOGRAPHER: This ends the video deposition of John M. Williams, Sr., M.D., M.P.H., on January 13, 2009. The time, 12:36 p.m.
(At 12:36 p.m. the deposition concluded.)

_____
JOHN M. WILLIAMS

Subscribed and sworn to before me this ____ day of _____, 2009.

_____
Notary Public

STATE OF WISCONSIN)
MILWAUKEE COUNTY) SS:

I, KIM M. PETERSON, CM, Registered Professional Reporter and Notary Public in and for the State of Wisconsin, do hereby certify that the deposition of JOHN M. WILLIAM, SR., M.D., M.P.H., was taken before me at 3000 Westhill Drive, Wausau, Wisconsin, on the 13th day of January, 2009, commencing at 9:10 o'clock in the forenoon.

That it was taken at the instance of Pfizer upon verbal interrogatories.

That said deposition was taken to be used in an action now pending in the United States District Court, District of Minnesota, in re: Viagra Products Liability Litigation, Martin v. Pfizer and Stanley v. Pfizer.

APPEARANCES

AYLSTOCK WITKIN KREISS & OVERHOLTZ, PLLC, 803 North Palatox Street, Pensacola, Florida, 32501, by MR. DANIEL THORNBURGH, appeared on behalf of Mr. Martin and Mr. Stanley.

KAYE SCHOLER, LLP, 425 Park Avenue, New York, New York, 10022-3598, by MR. BERT L. SLONIM and MS. AVIGAEL FYMAN, appeared on behalf of Pfizer.

ALSO PRESENT: Mr. Neil D. Overholtz,

via telephone.

That said deponent, before examination, was sworn to testify the truth, the whole truth, and nothing but the truth relative to said cause.

That the foregoing is a full, true and correct record of all the proceedings had in the matter of the taking of said deposition, as reflected by my original machine shorthand notes taken at said time and place.

_____

Notary Public in and for
the State of Wisconsin

Dated this 19th day of January, 2009,
Milwaukee, Wisconsin.
My commission expires April 11, 2010.